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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO.: 1:19-cv-09079

- - - - -
GA HO KIM, :
 :
Plaintiff, :
 : DEPOSITION OF:
-vs- :
 : JOHN J.K. LEE
DKCOSMETICS; DKCOS CORP.; CLUB:
CLIO CORP.; CLUB CLIO NYC : (taken remotely
CORP.; JONG KYUN ("JOHN") LEE : via Zoom)
and JOHN DOES 1-10 (said names:
being fictitious); and JOHN :
ROES CORPS. 1-10 (said names :
being fictitious), :
 :
Defendants. :
- - - - -

Transcript of testimony as taken by and
before ANGELA SPERDUTO, a Certified Court Reporter
of the State of New Jersey, at the home offices of
Angela Sperduto, Certified Court Reporter, 22
Noelle Court, Lincoln Park, New Jersey, on
Wednesday, February 17, 2021, commencing at
10:12 a.m.

ANGELA SPERDUTO
CERTIFIED COURT REPORTER
22 NOELLE COURT
LINCOLN PARK, NEW JERSEY 07035
(973) 694-5029

1

2 A P P E A R A N C E S:

3 KIM, CHO & LIM, LLC
4 BY: SEOKCHAN KWAK, ESQ.,
5 For the Plaintiff

6 LAW OFFICE OF KENNETH A. ELAN
7 BY: KENNETH A. ELAN, ESQ.,
8 For the Defendants

9 ALSO PRESENT:
10 Fran Yoon, Interpreter

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I N D E X

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WITNESS

DIRECT

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JOHN J.K. LEE
MR. KWAK

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E X H I B I T S

13

NUMBER

DESCRIPTION

IDENTIFICATION

14

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for Club Clio Corp.

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2 F R A N Y O O N,

3 Korean interpreter, sworn.

4

5 J O H N J.K. L E E,

6 51 13 Sutton Lane, New Hyde Park, New York

7 11040, sworn.

8

9 DIRECT EXAMINATION BY MR. KWAK:

10 Q Good morning, Mr. Lee. Thank you for
11 being here today.

12 A Okay.

13 Q Can you state your legal name for the
14 record, please?

15 A John J.K. Lee.

16 THE WITNESS: J-o-h-n J. K. L-e-e.

17 THE INTERPRETER: John J.K. Lee.

18 Q Have you ever used any other names here
19 in the United States?

20 A Yes, Jong Kyun Lee, spelled J-o-n-g
21 K-y-u-n.

22 Q And last name, the same last name,
23 Lee. Right?

24 A Yes.

25 Q Okay. Have you ever been deposed

1 Lee - direct

2 before?

3 A No.

4 Q Okay.

5 Do you know what today's proceeding is
6 about?

7 A No, not really.

8 Q Okay.

9 Today it's a question and answer
10 session where I will be asking you questions and
11 you will be answering the questions that I pose to
12 you.

13 A Okay.

14 Q And, please, we have an interpreter
15 that's interpreting for you so please respond to
16 the Korean -- the question posed to you in Korean
17 that's interpreted by Miss Yoon.

18 A Okay.

19 Q And when you provide your answer, too,
20 please try to respond in Korean so that Miss Yoon,
21 the interpreter, can interpret it into English for
22 the record.

23 A Okay.

24 Q And we also have a court reporter here
25 today who will be writing down everything that's

1 Lee - direct

2 being said in this deposition.

3 A Okay.

4 Q And she cannot record anything that we

5 do. She can only record all the things that we

6 say, so when you answer, please make sure you

7 verbalize your response.

8 A Okay.

9 Q Mr. Lee, what's your current
10 residential address?

11 A 51 13 Lane, 13 Sutton Lane, New Hyde
12 Park, New York 11040.

13 (The interpreter and the witness speak
14 in Korean.)

15 THE INTERPRETER: The interpreter would
16 like to correct the address. The correct
17 address is 51 Sutton Lane, New Hyde Park,
18 New York 11040. There's no 13. It was
19 Sutton.

20 Q I'm sorry, it's 51 Sutton, S-u-t-t-o-n,
21 Hill Lane, New Hyde Park, New York. Is that
22 right?

23 A That's correct, Sutton Hill Lane.

24 Q Okay.

25 Do you own that property, your

1 Lee - direct

2 residential property where you live?

3 A No, it's not.

4 Q Okay.

5 Do you own any other residential
6 property?

7 A No.

8 Q What's the date of your birth?

9 A August 26, 1976.

10 Q And is there any reason you would not
11 be able to speak the truth today?

12 A No.

13 Q Okay.

14 In anticipation of participating at the
15 deposition here today did you review any kind of
16 documents?

17 A No.

18 Q Okay.

19 Mr. Lee, can you -- how many businesses
20 do you own as of now?

21 Wait, let me rephrase that.

22 How many business entities do you own
23 currently?

24 A About three.

25 Q And can you list them?

1 Lee - direct

2 A They are DKCosmetics, DKCos and Club
3 Clio.

4 Q Is that the full legal name of the
5 business entities that you own?

6 A Yes. The exact names are, I believe,
7 DKCosmetics, DKCos Corp., and Club Clio USA Corp.

8 Q Okay.

9 What about Club Clio Corp. without the
10 USA?

11 MR. ELAN: Objection to form. What are
12 you asking?

13 I'm sorry, I didn't let you finish the
14 question. Go ahead. Sorry.

15 Q Do you own -- I'll rephrase.

16 Do you own a business entity named Club
17 Clio Corp.?

18 A No.

19 Q What about -- let me rephrase.

20 Do you own a business entity named Club
21 Clio NYC Corp.?

22 A I used to own it.

23 Q And what happened to Club Clio NYC
24 Corp.?

25 MR. ELAN: Objection to form.

1 Lee - direct

2 The witness can answer.

3 A Well, it was a retail store that was
4 located on the 14th Street. However, due to
5 pandemic, it had to close.

6 Q And for DKCosmetics, does it have any
7 like an Inc. or a Corp. at the end or is it just
8 DKCosmetics?

9 A I believe it is an I-n-c.

10 Q Okay. And where is DKCosmetics' office
11 located?

12 MR. ELAN: Objection. Objection to
13 form.

14 A 20 West 33rd Street, New York 10001.

15 Q Is there any other addresses for
16 DKCosmetics? Are there any other addresses?

17 MR. ELAN: Objection to form.

18 The witness can answer if he
19 understands the question.

20 A Are you asking me for a previous
21 address?

22 Q Including previous addresses.

23 A There was a previous address before we
24 moved the office to 20 West. It used to be at 18
25 West 33rd Street, and there is a warehouse in

1 Lee - direct

2 New Jersey, so if you're asking for the address of
3 that warehouse, I can give you the exact address.

4 Q Please, can you give me the address for
5 the New Jersey warehouse?

6 A It's -- the address is 734 Grand
7 Avenue, Ridgefield, New Jersey. I can't recall the
8 zip code.

9 Q All right.

10 And that warehouse, is it leased under
11 DKCosmetics' name?

12 A I cannot give you a definite answer
13 because I don't have the lease in front of me but I
14 believe so.

15 Q Is it possible that a different entity
16 is on that lease?

17 MR. ELAN: Objection to the form.
18 Objection to the form of the question. You're
19 asking the witness to speculate. He says he
20 doesn't know.

21 Over my objection, if the witness can
22 give an answer.

23 A No.

24 Q Okay.

25 And is there any other addresses in

1 Lee - direct

2 New Jersey former or current for DKCosmetics?

3 A Yes, there was another location that we
4 used to use as a warehouse. However, I can't
5 recall that address.

6 Q Do you know which town or city that
7 former warehouse was in?

8 A It was in the same town, Ridgefield.

9 Q Okay.

10 And what kind of business was
11 DKCosmetics involved in?

12 A Cosmetic wholesale.

13 Q And as a part of that does DKCosmetics
14 warehouse stuff and then sell it to retail stores?
15 Is that accurate?

16 THE REPORTER: I'm sorry, Sean, what
17 was the word?

18 As a part of that does DKCosmetics
19 warehouse -- finish the question, please.

20 Q Goods and deliver the goods to retail
21 stores?

22 MR. ELAN: I just -- I want a
23 clarification because the question was
24 convoluted and there was some stopping.

25 Are you asking whether DKCosmetics

1 Lee - direct

2 ships goods from the warehouse to customers?

3 Was that the question?

4 MR. KWAK: I'm asking if it stores
5 goods as in warehouses the goods and then
6 delivers them, yes, ships them out.

7 MR. ELAN: And then ships them out.

8 MR. KWAK: It's just different words.

9 MR. ELAN: The witness can answer the
10 question.

11 A No, we don't ship them out.

12 Q Okay.

13 And are you the sole owner of
14 DKCosmetics?

15 A Yes.

16 Q All right, let's go over to DKCos Corp.
17 What's the address for DKCos Corp.?

18 MR. ELAN: Just if I may get a
19 clarification before the witness answers.

20 Are you asking for the principal office
21 address of DKCos? Are you asking where it
22 does business? Can you give a clarification,
23 please?

24 MR. KWAK: Wherever it has an office.

25 MR. ELAN: All right, the witness can

1 Lee - direct

2 answer.

3 A It shares the same office as the
4 DKCosmetics.

5 Q Does it have any other addresses for
6 different offices or warehouses?

7 A No.

8 Q Does it -- does DKCos Corp. share the
9 warehouse with DKCosmetics, as well?

10 A Yes.

11 MR. ELAN: Objection to the form of the
12 question but the witness gave an answer.
13 That's fine.

14 Let me remind the witness that if I
15 interpose an objection, please let me state my
16 objection on the record before you answer.

17 You can go on.

18 A Understood.

19 Q All right.

20 And what's the nature of business for
21 DKCos Corp.?

22 MR. ELAN: Objection to the form of the
23 question.

24 A It's the same as the DKCosmetic.

25 Q And are you the sole owner of DKCos

1 Lee - direct

2 Corp.?

3 A Yes.

4 Q Okay.

5 When was Club Clio USA Corp.

6 incorporated?

7 A I can't recall exactly when it was
8 incorporated. However, based on my recollection, I
9 believe it was between 2013 and 2015.

10 Q And what's the address -- what's the
11 office address for Club Clio USA Corp.?

12 A It's not -- it doesn't have an office
13 address but it's a retail store and the address of
14 that retail store is 136-86 Roosevelt Avenue,
15 Flushing, New York.

16 Q Does it have any other retail stores
17 that it operates?

18 A No.

19 Q And is it true that it -- I'm sorry,
20 you said it's a retail store. What kind of goods
21 does Club Clio USA Corp. sell?

22 A Korean-made cosmetics.

23 Q Does Club Clio USA Corp. have any other
24 business other than retail sale of Korean
25 cosmetics?

1 Lee - direct

2 A No.

3 Q And are you the sole owner of Club Clio
4 USA Corp.?

5 A That's correct.

6 Q Club Clio NYC Corp., what was its
7 address when it -- before it was dissolved?

8 A I don't know if this is the correct
9 address. However, I believe it was 11 West 14th
10 Street, New York.

11 MR. ELAN: Let me remind the witness to
12 not guess, not to speculate. Counsel's only
13 interested in your knowledge, so just if your
14 answer is based upon knowledge, give an
15 answer. Otherwise, simply say that you don't
16 recall.

17 A Understood. Thank you.

18 Q And were you the -- I'm sorry.
19 What was the nature of business for --
20 of Club Clio NYC Corp.?

21 MR. ELAN: Objection to form.

22 The witness could answer.

23 A Well, it was the same concept. The
24 company was a retail store same as the Club Clio
25 USA Corp.

1 Lee - direct

2 Q Did you say it was the same as Club
3 Clio USA Corp. or Club Clio Corp.?

4 A Club Clio USA.

5 Q And are you the sole owner of Club Clio
6 NYC Corp.?

7 A Yes.

8 Q And I'm just asking again, you do not
9 recall a company named Club Clio Corp. Is that
10 right?

11 A Correct. I don't know.

12 MR. KWAK: All right. Let me do a
13 quick screen share. Hold on one second.

14 Q Mr. Lee, can you see the pdf file that
15 I just put up on the screen?

16 A Yes.

17 Q I'm highlighting the section where it
18 says Selected Entity Name or the Current Entity
19 Name. Do you see Club Clio Corp.?

20 A Yes.

21 Q And it also shows an address for this
22 corporation. It says 136-86 Roosevelt Avenue,
23 Flushing, New York, 11354. Do you see that?

24 A Yes.

25 Q Is this not a company owned by you?

1 Lee - direct

2 A This is the Club Clio USA that I was
3 talking about.

4 Q Okay.

5 So when you were referring to Club Clio
6 USA Corp., you -- is it fair to -- is it accurate
7 to say that you were actually referring to Club
8 Clio Corp.?

9 A Yes, that's correct.

10 Q Okay. Do you have any -- oh, do you
11 recall or do you recognize a business name called
12 Jknlee?

13 A I once used that name.

14 Q And which corporation operated under
15 the name Jknlee?

16 MR. ELAN: Objection to form.

17 A As I sit here now, I can't recall.

18 Q Was it either one of Club Clio Corp.,
19 Club Clio NYC Corp., DKCosmetics or DKCos Corp.?

20 MR. ELAN: Just note my objection. The
21 witness said he couldn't recall. But if the
22 witness -- if his memory is refreshed, he can
23 give an answer.

24 A Probably.

25 Q And what was the address, the retail

1 Lee - direct

2 store address, for Jknlee?

3 A I can't recall.

4 Q Was there just one location or more
5 than one location for Jknlee?

6 A Based on my recollection, I believe it
7 was one.

8 Q And was it in New York?

9 A Yes.

10 Q And was it in Manhattan?

11 A Yes.

12 Q And what was the nature of the business
13 operated under the name Jknlee?

14 MR. ELAN: Objection to form.

15 A It was the same business as the Club
16 Clio USA and Club Clio.

17 Q Mr. Lee, do you own any business
18 outside the United States?

19 MR. ELAN: Objection to form.

20 The witness can answer.

21 A No, I don't have any businesses that I
22 own outside of the U.S.

23 Q Do you operate any business outside the
24 U.S.?

25 MR. ELAN: Objection to form.

1 Lee - direct

2 A What's the difference between owning a
3 business and operating a business?

4 Q Well, owning you may -- you would have
5 share or stock in the business, and operating you
6 don't necessarily have any ownership of the
7 business, no shares, no interest in the business
8 but you may still be managing the business or
9 taking profits from the business.

10 MR. ELAN: Just note my objection to
11 counsel's explanation.

12 The witness can answer if he
13 understands the question.

14 A I don't think I can answer because I
15 don't clearly understand the question.

16 Q All right.

17 Do you have any income source from
18 outside the United States, from anywhere outside
19 the United States?

20 MR. ELAN: Objection to the form of the
21 question.

22 The witness gave an answer. That's
23 fine.

24 A No.

25 Q With respect to the four corporate

1 Lee - direct
2 entities that we've discussed, and from now on when
3 I say the corporate entities, unless I specify, I
4 mean all four of DKCosmetics, DKCos Corp., Club
5 Clio Corp. and Club Clio NYC Corp. Do you
6 understand that?

7 A Understood. If I don't understand
8 anything, I would just ask you for clarification.

9 Q Please do.

10 Did -- at any time did two or more of
11 the corporate entities hire the same employee at
12 the same time?

13 MR. ELAN: I'm going to object to the
14 question. I don't understand what you're
15 asking.

16 Q Did two or more of the corporate
17 defendants hire a single employee at the same time
18 concurrently?

19 MR. ELAN: Concurrently. Did it hire
20 them at the same time.

21 If the witness can give an answer.

22 A No.

23 Q Was there another case for an employee
24 named Hyun Hee Kim?

25 MR. KWAK: Fran, it's Hyun Hee Kim.

1 Lee - direct

2 A No.

3 THE REPORTER: Can you spell it, Sean,
4 please, for us?

5 MR. KWAK: It's H-y-u-n space H-e-e
6 space K-i-m.

7 THE REPORTER: Thank you.

8 MR. KWAK: Oh, I'm sorry, when I used
9 the -- when I did the screen share for the
10 corporate document, I forgot to say I'm
11 marking it as an exhibit. We'll just travel
12 back in time and let's mark that as Exhibit
13 A. Is that okay?

14 MR. ELAN: That's fine. You don't have
15 to go back. Just have the court reporter
16 deemed it marked as plaintiff's A for
17 Identification.

18 MR. KWAK: Okay. And let me mark this
19 as Exhibit B for Identification. It's a --
20 it's the Corporate Defendant's Response To
21 Plaintiff's Interrogatories.

22 (Business Entity Information for Club
23 Clio Corp. is marked Exhibit A for
24 Identification. Corporate Defendant's
25 Responses To Plaintiff's Interrogatories is

1 Lee - direct

2 marked Exhibit B for Identification.)

3 Q Mr. Lee, can you see the document that
4 I have put up on screen share?

5 A Yes.

6 Q Do you recognize this document?

7 A Not really.

8 Q Do you know what an interrogatory is?

9 A Not really.

10 Q Do you recall responding to a set of
11 interrogatories in this action?

12 A Yes, my recollection is that I received
13 the set of questions from my attorney and I
14 discussed it with him before answering.

15 MR. ELAN: Mr. Lee, let me remind you,
16 please do not refer to any conversations that
17 you had between yourself and your attorneys.

18 A Understood.

19 Q Okay.

20 And I'm going to the last page of the
21 same document, your response, the corporate
22 defendant's response to the interrogatories. I see
23 an electronic signature. It has /s/ John Lee. Did
24 you authorize this electronic signature to be put?

25 A Yes.

1 Lee - direct

2 Q Okay.

3 And I'm looking at -- one second --
4 interrogatory number 11. And, actually, more the
5 response to interrogatory number 11. It says,
6 "With the exception of HyunHee Kim, who worked for
7 both Clio and DKCos at the same time."

8 Do you see that?

9 A Yes.

10 Q Is it true that Miss Kim, Miss Hyun Hee
11 Kim, worked both for Clio and DKCos at the same
12 time?

13 A Well, no, I believe there must have
14 been some communication issues through an
15 interpreter. There was never a time when one
16 person was working for two businesses at the same
17 time. A store may have sent an employee to the
18 warehouse to work there for some time or the
19 warehouse employee may have come to the store to
20 work there for some time. There was never a time
21 when one person worked at the same -- two places at
22 once.

23 Q So this response is not accurate. Is
24 that right?

25 A I cannot say that or I cannot answer

1 Lee - direct

2 that.

3 Q Okay. Let me rephrase this question.

4 MR. ELAN: Before you do that, I just
5 want to remind you, because your question, I
6 think it's a little confusing to the witness
7 and I just want to clarify.

8 Your question to the witness is whether
9 anyone was hired at the same time. This
10 answer is something completely different.
11 It's saying that she was employed for both.
12 It doesn't say that Hyun Hee Kim was hired
13 simultaneously by both companies. You're
14 talking about something that's apples and
15 oranges and I think the witness may be
16 confused here so I think I need you to
17 clarify, counsel, because what you're doing is
18 not right.

19 MR. KWAK: Just state your objection
20 for the record and then we can move on.

21 MR. ELAN: I've stated it. You've
22 asked two different things.

23 MR. KWAK: Yes. Yes, for the record,
24 and we can move on, Mr. Elan.

25 Q Mr. Lee, is it true -- is it accurate

1 Lee - direct
2 that Miss Hyun Hee Kim worked for both Clio and
3 DKCos at the same time?

4 A I still don't get the question. Could
5 you explain it again?

6 Q Did Miss Hyun Hee Kim at the same time
7 work for both Clio and DKCos at any time?

8 A I'm still confused because I don't
9 understand the question. Logically you only have
10 one body. One person has one body so I don't
11 understand how one person can work at two different
12 places at the same time.

13 Q Mr. Lee, are you saying that an
14 individual cannot have more than one employer?

15 MR. ELAN: Objection to the form.

16 Just before you answer, when you asked
17 the question can you have one employer when,
18 simultaneously, different years? When you
19 asked the question, you didn't say -- all you
20 said is more than one employer. Do you mean
21 simultaneously?

22 MR. KWAK: Let me rephrase.

23 Q Mr. Lee, are you saying that an
24 individual cannot have more than one employer at
25 the same time?

1 Lee - direct

2 A No, that's not what I'm saying but I
3 believe the first -- the previous question and this
4 current question is completely different.

5 Q Which first question are you referring
6 to?

7 MR. ELAN: Why don't you have the
8 reporter read back the question rather than
9 have the witness --

10 MR. KWAK: No, no, Mr. Elan. Mr. Elan,
11 state your objection.

12 MR. ELAN: I stated the objection
13 here.

14 MR. KWAK: I don't know which question
15 Mr. Lee is referring to so I can't ask the
16 court reporter to read it back. That's why
17 I'm asking Mr. Lee which question are you
18 referring to.

19 MR. ELAN: The witness can give an
20 answer.

21 A I'm just saying that I don't understand
22 the connection between the last question and the
23 question that was proposed to me prior which -- in
24 which you are asking me if Hyun Hee Kim was
25 employed by two different entities at the same

1 Lee - direct

2 time.

3 Q Okay. Mr. Lee, you can disregard, you
4 can forget about the questions I've asked before.
5 Just answer the question that I pose to you right
6 now.

7 A Okay.

8 Q Is it your understanding that an
9 individual cannot be hired or, I'm sorry, let me
10 reask the question.

11 Is it your understanding that an
12 individual cannot have more than one employer at
13 the same time?

14 A No, I don't think that.

15 Q Then is it possible that Miss Kim
16 worked for both Clio and DKCosmetic -- and DKCos at
17 the same time?

18 MR. ELAN: Objection to the form of the
19 question. It calls for speculation. If the
20 witness wants to give an answer, he can.

21 (The interpreter and the witness speak
22 in Korean.)

23 Q My question was, is it possible or not?

24 MR. ELAN: Note my objection.

25 A I mean, it's a -- I'm not sure if I'm

1 Lee - direct
2 understanding your question clearly. However, I
3 can explain it this way: Hyun Hee Kim was an
4 employee of DKCosmetic -- Cosmetics, and she may
5 have been dispatched to help out at the retail
6 store, but I don't know if that constitutes working
7 for two companies.

8 Q Okay.

9 And when you say retail stores, it's
10 the business owned by the Clio -- Club Clio Corp.
11 or Club Clio NYC. Is that correct?

12 A Yes.

13 Q Okay.

14 Is there any difference between the
15 business of Club Clio and Club Clio NYC?

16 A Probably the location.

17 Q And Miss Kim -- is it your testimony
18 that Miss Kim was hired by DK -- I'm sorry, let me
19 withdraw that question.

20 When you said Miss Kim was hired by
21 DKCos, did you mean DKCos Corp. or DKCosmetics?

22 A Currently or initially?

23 Q Currently first.

24 A My understanding is that she is an
25 employee of the DKCos Corp.

1 Lee - direct

2 Q And was she ever employed at
3 DKCosmetics?

4 A No.

5 Q Was she employed at Club Clio Corp.
6 ever?

7 A Yes.

8 Q And was she employed by Club Clio NYC
9 Corp. ever?

10 A No.

11 Q When did she -- when did her employment
12 with DKCos Corp. begin?

13 A I don't know the exact date.

14 Q Do you know which year it was?

15 A No.

16 Q Was it before Mr. Ga Ho Kim was fired
17 or laid off or resigned?

18 A I can't recall that either.

19 Q Okay.

20 And your testimony is that when Miss
21 Kim was working at DKCos Corp., she was sent to
22 work at the retail stores operated by Club Clio
23 Corp. and Club Clio NYC Corp. Is that right?

24 MR. ELAN: Objection. I think you're
25 mischaracterizing the witness's testimony. If

1 Lee - direct

2 the witness can answer the question.

3 A Yes.

4 Q Was it Club Clio Corp.'s retail store
5 or Club Clio NYC Corp.'s retail store?

6 A My recollection is that it was Club
7 Clio USA.

8 Q Was that the only location?

9 A I can't recall.

10 Q Okay. All right.

11 Mr. Kim, do you remember Mr. Ga Ho Kim?

12 A Yes.

13 Q Was he employed from May 2nd, 2016
14 through November 15th, 2018?

15 A I can't recall with certainty.

16 Q Was he ever employed in New York?

17 A Yes, there was a time when he was
18 employed in New York.

19 Q And while he was working in New York,
20 which one of the corporate entities was the
21 employer for Mr. Kim?

22 A I believe it was Club Clio USA.

23 MR. ELAN: Sean --

24 Q When you say --

25 MR. ELAN: I'm sorry, ask the question

1 Lee - direct

2 and then I just want to talk to you. We've
3 been going for about an hour. I need to take
4 a break for a few minutes.

5 MR. KWAK: Okay, just one more
6 question.

7 MR. ELAN: Go right ahead.

8 Q And, Mr. Kim, when you say Club Clio
9 USA, you mean Club Clio Corp. Right? You
10 clarified this.

11 A Yes, that's correct.

12 MR. KWAK: Okay. We can take a break.

13 MR. ELAN: We're going to take a break
14 and why don't we resume, say, in about -- I
15 have 11:13. Why don't we say about 11:25,
16 11:30, whatever?

17 MR. KWAK: That's more than I expected
18 but, I mean, what do you need a break for?

19 MR. ELAN: For my own reasons I need to
20 take a break right now. I just need ten
21 minutes. Okay? Just ten minutes.

22 MR. KWAK: All right. 11:25.

23 MR. ELAN: Mr. Lee, we're off. You can
24 step out to stretch your legs.

25 (There is a recess.)

1 Lee - direct

2 Q All right. Mr. Lee, you said when
3 Mr. Kim, Mr. Ga Ho Kim, was employed in New York,
4 he was employed by Club Clio Corp. Is that right?

5 A Correct.

6 Q Did he work at multiple locations?

7 A My recollection is that when he was
8 working in New York, Ga Ho Kim was an assistant
9 manager, so he was in charge of training and he
10 would -- he was dispatched to the retail store or
11 the showroom.

12 Q Is it true that he worked at 136-86
13 Roosevelt Boulevard?

14 A Yes, that's the location for the Club
15 Clio Corp., Club Clio USA.

16 MR. ELAN: This is a clarification.

17 Mr. Lee, is it Roosevelt Avenue or
18 Roosevelt Boulevard?

19 A Avenue, I think.

20 Q And was Mr. Ga Ho Kim sent to work at
21 11 West 14th Street, New York, New York?

22 A I believe so.

23 Q And that's the address for Club Clio
24 NYC Corp. Is that right?

25 A Yes, that's correct.

1 Lee - direct

2 Q Did he also work at 141-47 Northern
3 Boulevard, Flushing, New York?

4 A I can't recall.

5 Q Do you recognize the address?

6 A That was the address -- that was the
7 registered address for the DKCosmetics.

8 Q Is there a retail store located at that
9 address?

10 A For a short time, yes, there was one.

11 Q In what year?

12 A I can't recall.

13 Q Did he also work at 2 East Broadway,
14 New York, New York?

15 A I can't recall.

16 Q Do you recognize that address?

17 A No, I don't really recall that address.

18 Q Was that the address for Jknlee?

19 A That's what I think but I don't have a
20 -- I'm not -- I can't recall with certainty, so I
21 can't say that it is.

22 Q Without regard to the address, was
23 Mr. Kim sent to work at Jknlee retail store?

24 A I can't recall because I wasn't
25 managing that business so I can't recall.

1 Lee - direct

2 Q Who managed that location, Jknlee?

3 A There used to be a supervisor.

4 Q What -- is it a he or she?

5 A She.

6 Q What was her -- what is her name?

7 A Her name was Jieun Lee, spelled

8 J-i-e-u-n L-e-e.

9 Q Was she an employee of any one of the
10 four corporate entities?

11 A Yes, that's correct.

12 Q Which business entity was she an
13 employee of?

14 A I know that she was not employed by
15 either DKCosmetics or DKCos Corp. but I can't
16 recall which one of the Club Clios she was employed
17 by.

18 MR. KWAK: Just for the record, for
19 spelling and so you have all the spellings
20 right, it's DKCosmetics all in one word,
21 D-K-C-o-s-m-e-t-i-c-s, and DKCos Corp. is
22 D-K-C-o-s, one word, space Corp.

23 Back on the record.

24 Q Mr. Lee, was Mr. Kim, Mr. Ga Ho Kim,
25 sent to work at 192 Front Street, New York,

1 Lee - direct

2 New York?

3 MR. ELAN: Objection to the form. The
4 witness can answer if he.

5 A I don't recognize that address.

6 Q Is there any other addresses or any
7 other stores where you do recall that Mr. Kim was
8 sent to work at?

9 A No. Sorry.

10 Q Was Mr. Kim employed in New Jersey?

11 A No. He was never sent to work in
12 New Jersey.

13 Q Was he --

14 MR. ELAN: Just for clarification. I
15 just want to clarify this.

16 Your prior question, Mr. Lee, the prior
17 question was he employed in New Jersey,
18 correct, versus did he work in New Jersey?
19 Because we're talking about two different
20 things. Am I correct, Sean?

21 MR. KWAK: Yes, I understand the
22 confusion here.

23 MR. ELAN: And that's what caused the
24 confusion before, so if you just clarify it,
25 please.

1 Lee - direct

2 MR. KWAK: Yes, let me rephrase.

3 Q Was he ever employed in New Jersey?

4 MR. ELAN: Sean, if I may just, just an
5 objection. Just so I am clear, when you say
6 was he employed in New Jersey, was he employed
7 by a New Jersey entity? I don't want to, you
8 know, hamstring you here but I want to be
9 careful about this question.

10 MR. KWAK: I'll get there.

11 Q Was Mr. Kim ever made to suffer, to
12 provide service in New Jersey?

13 MR. ELAN: Well, I'll object. Ever
14 made to suffer. If you want to ask whether he
15 worked there, I'll let you ask that. That's a
16 fair question.

17 Q All right. Did Mr. Kim ever work in
18 New Jersey?

19 A Yes.

20 Q And which corporate entity was the
21 employer when Mr. Kim was working in New Jersey?

22 A DKCosmetics.

23 Q And that's DKCosmetics and not DKCos
24 Corp. Is that right?

25 A That's correct.

1 Lee - direct

2 Q And what was the address of the
3 location where he worked?

4 A It's a warehouse in New Jersey at the
5 address which I provided this morning, the one that
6 starts with 734.

7 Q That's 734 Grand Avenue, Ridgefield,
8 New Jersey. Right?

9 A Yes.

10 Q And you mentioned a warehouse that
11 DKCosmetics had before that address. Was Mr. --
12 did Mr. Kim ever work at the other address, the
13 former address?

14 A I can't recall.

15 Q Okay.

16 Just to clarify, is it true that when
17 Mr. Kim was working in New York, he was employed by
18 Club Clio Corp.?

19 A Yes.

20 Q And when he was working in New Jersey,
21 he was employed by DKCosmetics. Is that right?

22 A Yes.

23 Q When he was working in New Jersey, did
24 he work at any location other than 734 Grand
25 Avenue?

1 Lee - direct

2 MR. ELAN: I'm just going to object to
3 the question. It's ambiguous. Are you saying
4 did he work at any other location in
5 New Jersey while he worked at the warehouse or
6 are you --

7 MR. KWAK: Without limitation as to the
8 state borderline.

9 A I can't recall. I don't think so.

10 Q All right.

11 When Mr. Kim was working in New York,
12 what was his title?

13 MR. ELAN: Objection. Improper
14 foundation.

15 The witness could answer.

16 A My understanding is that in the last
17 stages of his employment I believe he was assistant
18 manager.

19 Q One second.

20 And when he was working in New Jersey,
21 what was his title?

22 MR. ELAN: Same objection. Improper
23 foundation.

24 The witness can answer.

25 A I believe he didn't have one. He was

1 Lee - direct

2 just referred to as -- by his own name.

3 Q And what was Mr. Kim's -- what were his
4 duties when he was working in New Jersey?

5 A I believe he was just one of the
6 employees working at the warehouse.

7 Q Did he have any sales activities?

8 MR. ELAN: Objection to the question.

9 I don't know what is meant by sales
10 activities. Can you rephrase?

11 MR. KWAK: You don't understand. The
12 witness may understand.

13 MR. ELAN: All right, I'm just
14 directing the witness. If he understands what
15 sales activities is, fine. The witness can
16 answer.

17 A No, he was never involved in sales
18 activity.

19 MR. KWAK: I'm sorry, I just got a
20 call.

21 Q I am showing you again what's been
22 marked as Exhibit B and I'm looking at
23 interrogatory number 6. In response to
24 interrogatory number 6, you responded, "While he,"
25 Mr. Kim, "worked for DKCosmetics, he engaged in

1 Lee - direct

2 wholesale sales of product in the Flushing,

3 New York area."

4 Do you see that?

5 A Yes, I do see that.

6 Q Is this accurate?

7 A Well, there was a probation period and

8 there was some tries, trials, but it was stopped.

9 Q Okay.

10 And what was plaintiff's -- what was

11 Mr. Kim's salary when he was first hired in

12 New York?

13 A I can't recall.

14 Q Do you remember his salary at any time

15 while he was working in New York?

16 A No.

17 Q What about in New Jersey? Do you

18 remember his salary while he was working in

19 New Jersey?

20 A No.

21 Q Was he paid a fixed salary or was he

22 paid by the hour?

23 A I believe it was a yearly salary.

24 Q How often were the payments made?

25 A It's customary for our company to pay

1 Lee - direct

2 bimonthly.

3 Q So when he was paid a salary, he would
4 be paid the same amount twice a month. Is that
5 right?

6 A Yes, I believe that's true for most of
7 our employees.

8 Q What do you mean most? What do you
9 mean for most of your employees? Is there an
10 exception to that?

11 A Yes, most. I believe the communication
12 was wrong. The translation was incorrect. I meant
13 to say that for the most part he was probably paid
14 that way. That's what I meant to say.

15 Q And you said Mr. Kim was paid
16 bimonthly. Is this the case for all of your
17 salaried employees?

18 MR. ELAN: Objection. He didn't say
19 bimonthly. He said biweekly. You said
20 bimonthly.

21 MR. KWAK: Yes, that's -- I mean,
22 bimonthly meaning twice a month. I'll
23 rephrase it.

24 MR. ELAN: Bimonthly means every other
25 month. Biweekly means every other week,

1 Lee - direct

2 counselor.

3 MR. KWAK: Well, there's a -- off the
4 record.

5 There's a little bit of dispute on the
6 definition about that. But I'll rephrase it.

7 Back on the record.

8 Q Mr. Lee, you testified that plaintiff
9 when he was paid a salary he was paid twice a
10 month. Is that right?

11 A Yes.

12 Q And by that do you mean Mr. Kim was
13 paid on the 15th of every month and then on the
14 last day of every month?

15 A Yes, for the most part.

16 Q And was that the case for all of your
17 salaried employees?

18 A Yes, that's correct.

19 Q Was Mr. Kim ever paid per day?

20 A I can't recall.

21 MR. KWAK: Okay. I'll mark this as
22 Exhibit C for Identification. It's paystubs
23 from Club Clio USA.

24 (Paystubs from Club Clio USA is marked
25 Exhibit C for Identification.)

1 Lee - direct

2 Q Mr. Lee, can you see the document that
3 I'm showing you?

4 A Yes.

5 Q And it says Club Clio USA at the top
6 left corner. Right?

7 A Yes.

8 Q And it says Employee Name, Jimmy (Gaho)
9 Kim. Do you see that?

10 A Yes.

11 Q Was Jimmy Mr. Kim's English name?

12 A Yes.

13 Q Was there any other individual named
14 Jimmy under your employ?

15 A I can't recall.

16 Q And it says -- there's a box that says
17 "Hours." Do you see that?

18 A Yes.

19 Q And right under that it says "14
20 days." Is that correct?

21 MR. ELAN: Wait. Where do you see 14
22 days? Where are you looking?

23 MR. KWAK: It's the box right under
24 Hours. It says 14 and there's a word in
25 Korean that means days.

1 Lee - direct

2 MR. ELAN: Wait. I see 14 -- what
3 appears to be 14 and a half under the box
4 Hours. What am I missing here? What does
5 this say?

6 MR. KWAK: Well, this portion it says
7 days.

8 MR. ELAN: Where? That's in Korean?
9 You're representing to me that that's Korean.
10 Right?

11 MR. KWAK: Yes. And I'm asking Mr. Lee
12 if it's accurate that it says 14 days.

13 THE INTERPRETER: Mr. Lee already gave
14 an answer. He said -- he indicated, "Yes,
15 that's correct."

16 Q And, Mr. Lee, on the box to the right
17 of that it says "Rate." Correct?

18 A Yes.

19 Q And right under that it says "110." Do
20 you see that?

21 A Yes, I do see that.

22 Q Does that mean \$110 per day?

23 A I don't know because I didn't create
24 this document or I didn't -- I have a question. Is
25 it possible for me to ask a question?

1 Lee - direct

2 Q Ordinarily --

3 MR. ELAN: No. You don't ask a
4 question.

5 The witness has answered he doesn't
6 know.

7 MR. KWAK: If the witness wants to ask
8 a question for clarification --

9 MR. ELAN: No, it's not the job of the
10 witness to ask a question. If you want to ask
11 the witness a question, go ahead.

12 MR. KWAK: If the witness is asking a
13 question for clarification, I'll take the
14 question, clarify the question, clarify my
15 question and ask him again.

16 A Yes, I didn't understand the question.

17 Q Yes, Mr. Lee, ask me all the questions
18 you need to clarify my question.

19 A The reason that I'm confused about the
20 question is that your previous question dealt with
21 his salary while he was working in New Jersey and
22 you asked me if he was ever paid daily wages and
23 then suddenly you showed me a document for Club
24 Clio and asked this question. That's why I was
25 confused.

1 Lee - direct

2 Q Okay, let me reask that question.

3 Mr. Lee, was Ga Ho Kim paid a daily
4 wage at any time he was employed by you or one of
5 the corporate entities?

6 MR. ELAN: You know, objection. This
7 is asked and answered. The witness said that
8 he had a yearly salary and that he was paid
9 biweekly. I mean, where are you going?

10 MR. KWAK: He said for the most part.

11 MR. ELAN: So if you want to ask him
12 for what's left of the most part, that's a
13 fair question.

14 MR. KWAK: Well, that's pretty much
15 what I'm doing. Just state your objection and
16 move on.

17 MR. ELAN: All right, I've stated my
18 objection. You're contradicting the witness.
19 He gave testimony he was paid a yearly salary.

20 MR. KWAK: For the most part.

21 MR. ELAN: So if you want to ask him
22 what the rest of the part is, I have no
23 objection.

24 Objection, asked and answered. If you
25 want to ask a follow-up, go ahead.

1 Lee - direct

2 A Well, we're talking about if he was
3 ever paid the wages while he was employed and
4 working in New Jersey and I already indicated that
5 he received yearly salary and then the last
6 question you are asking me is that if he had ever
7 been paid a daily wages from any of the four
8 entities that I own, then the answer is no.

9 Q Okay, I just want to get the record
10 straight. When Mr. Kim was working in New York,
11 was he ever paid a daily wage?

12 A Yes.

13 Q And the paystub that I put up on the
14 screen, does this show the payment made based on
15 the number of days that Mr. Kim worked?

16 A I believe so.

17 Q And that's a fixed wage per day. Is
18 that right?

19 MR. ELAN: Objection to the form of the
20 question.

21 A I can't recall because I wasn't the one
22 who made the payment or who gave out the payment.

23 Q Who was the individual who drafted this
24 document?

25 A My understanding is that it was Jieun

1 Lee - direct

2 Lee, the supervisor.

3 THE INTERPRETER: J-i-e-u-n L-e-e.

4 Q Mr. Lee, you testified that Miss Jieun
5 Lee was the supervisor at 2 East Broadway,
6 New York, New York. Is that right?

7 A No.

8 Q No. Let me rephrase that.

9 You testified that Miss Jieun Lee was
10 the supervisor at Jknlee. Is that correct?

11 A No.

12 Q Who was the supervisor at Jknlee?

13 MR. ELAN: Objection to the form.

14 A I can't recall because that business
15 was in operation for a very short time, so I
16 believe there was no supervisor.

17 Q Okay.

18 And let's talk about Miss Jieun Lee.
19 She was the supervisor at 136-86 Roosevelt Avenue.
20 Is that right?

21 A Yes.

22 Q Was she a supervisor at any other
23 locations?

24 A There was a time there was a
25 cooperative like or joint work done with another

1 Lee - direct

2 entity.

3 Q Mr. Lee, I think I have the screen
4 share still up, yes.

5 Do you recognize the formatting of this
6 paystub?

7 MR. ELAN: For the record, note my
8 objection.

9 A Yes, I recognize it.

10 Q When did you begin using this -- this
11 paystub?

12 A I can't recall.

13 Q Was it before 2016?

14 A I can't recall.

15 Q Do you recall having any other -- let
16 me rephrase.

17 Do you recall using a paystub that
18 looks different from this one?

19 MR. ELAN: Objection to the form of the
20 question.

21 A No, I can't recall.

22 Q And how was Mr. Kim paid? Was he paid
23 in cash, check or a direct deposit or any other --
24 or by any other method?

25 A Well, when he was working in New York,

1 Lee - direct

2 I can't recall what method was used to pay him.

3 However, while he was in New Jersey he was mostly

4 paid by check and some cash.

5 Q Was it a corporate check?

6 A Yes, I believe so.

7 Q And are you able to get a copy of the

8 canceled checks that were paid to Mr. Kim?

9 A Yes, I'm able to request the bank to
10 provide me with that.

11 Q Did you provide Mr. Kim with a paystub
12 when you were paying him in New Jersey?

13 A I can't recall because it was not part
14 of my work.

15 Q Let me put this up on the screen
16 again.

17 Other than the paystubs that's on the
18 screen right now, do you know if -- actually, let
19 me withdraw.

20 When Mr. Kim received his wages twice a
21 month, do you know if he was provided any document
22 with his wages?

23 MR. ELAN: Can you be more specific
24 about when you say a document, can you be a
25 little more specific? He could be given

1 Lee - direct

2 anything, I mean.

3 MR. KWAK: Any document. That's what
4 I'm saying.

5 MR. ELAN: Any document?

6 MR. KWAK: Yes.

7 MR. ELAN: Note my objection for the
8 record. It's vague. It's ambiguous. If the
9 witness could give an answer.

10 I do want to also note that the witness
11 also testified that it wasn't part of his
12 duties in terms of whether you asked about
13 whether a paystub was provided or not, so
14 you're asking him something that was beyond
15 his duties. But if the witness can give an
16 answer.

17 MR. KWAK: Mr. Elan, please just note
18 your objection as to form.

19 MR. ELAN: I'm just noting it. The
20 witness answered --

21 MR. KWAK: As to form. Do not make
22 speaking objections, please.

23 A Like I said before, it wasn't part of
24 my duties, so I can't recall.

25 Q Is it that you cannot recall or you

1 Lee - direct

2 don't know?

3 A I don't know.

4 Q And who would know?

5 A I mean, there was an HR person at the

6 time of Ga Ho Kim's employment and that person

7 might know.

8 Q And is that with regards to your pay

9 practices in New York or New Jersey?

10 A I'm talking about while he was working

11 in New Jersey.

12 Q What about in New York? Who would know

13 if any document was provided to Mr. Kim along with

14 his wages?

15 A Jieun Lee.

16 Q Is Miss Lee still employed by Club

17 Clio?

18 A No.

19 Q Was she employed by any one of the four

20 corporate entities?

21 A No.

22 Q Are you able to find her last-known

23 address and contact information?

24 A Yes, I believe it's possible and my

25 understanding -- my understanding is that it was

1 Lee - direct

2 already provided.

3 Q And you said the HR person might know
4 with regards to your New Jersey pay practices. Who
5 is that HR person? What's his name?

6 A Heyshin Hwang. I believe it's spelled
7 H-y-e-s-h-i-e-n H-w-a-n-g.

8 Q Is it Mr. Hwang or Mrs. Hwang?

9 A It's Miss.

10 Q Is Miss Hwang still employed by any one
11 of the four entities?

12 A No.

13 Q And are you able to find her contact
14 information?

15 A That was also provided, too.

16 Q Are you aware that in New York that you
17 are required to provide a paystub to the employee
18 along with his wages?

19 MR. ELAN: Objection. You're asking
20 the client to give a legal answer to a legal
21 question and that question is improper.

22 MR. KWAK: I'm asking about his
23 knowledge. Is he aware.

24 MR. ELAN: You're asking --

25 MR. KWAK: Put the objection as to

1 Lee - direct

2 form.

3 MR. ELAN: Over my objection the client
4 can give an answer if he knows what the law
5 is.

6 MR. KWAK: Mr. Elan, please refrain
7 from doing speaking objections, please.

8 A Well, I wasn't really aware of that. I
9 just found out.

10 Q When did you find out?

11 A I can't recall when exactly that was.

12 Q Was it after this lawsuit was filed?

13 A No, prior to that.

14 Q How long prior?

15 A Well, I can't recall now. When you are
16 talking about filing a lawsuit, you're talking
17 about the point in time when I first received a
18 letter or a document from the court. Right?

19 Q That's correct.

20 A Yes, right before. Shortly before the
21 case was filed.

22 Q Was it after you received a letter from
23 our office, plaintiff's counsel?

24 A Yes, that's correct. However, it's
25 limited to the Club Clio which is a retail store.

1 Lee - direct

2 Because I knew that DKCosmetics was a corporation,
3 so I knew about the fact, but I found out about the
4 Club Clio after I received the letter from the
5 plaintiff.

6 Q Mr. Lee, what is Mr. Ga Ho Kim's
7 primary language?

8 A He and I communicated in Korean.

9 Q And, Mr. Lee, are you aware that an
10 employer or you as an employer are required to
11 maintain your employees' files for six years?

12 MR. ELAN: Objection to the form of the
13 question. You're asking again the client's
14 knowledge of the law. If the client can give
15 an answer.

16 THE REPORTER: Excuse me, Fran, one
17 minute.

18 Mr. Elan, you're saying if the client
19 can give an answer. Right?

20 MR. ELAN: If the client understands
21 what the law is. Otherwise, he doesn't.

22 A I mean, if you're asking me if I have
23 the understanding of it -- a legal understanding,
24 then, no, I don't.

25 Q Without regard to the legal

1 Lee - direct

2 requirements, were you aware that you should be
3 maintaining those records?

4 MR. ELAN: Objection. Same objection.

5 Witness can answer if he can.

6 A Aren't those two the same question?

7 Q Yes. But I don't want you to worry
8 about what the law actually says. I just want you
9 to answer to the extent that you're aware.

10 MR. ELAN: Same objection. The witness
11 can give an answer if he can.

12 A Yes, that's why there's a legal part or
13 department in our company.

14 Q When you say legal part, do you mean
15 there is an employee hired to ensure compliance
16 with the laws?

17 A What I'm saying is that with regard to
18 the understanding of any legal document that the
19 company receives based on needs, we consult with
20 either an attorney or an accountant or an employee
21 who is in charge of that.

22 Q Who is that employee in the legal part?

23 A They varied.

24 Q As far as you can remember, can you
25 name all of them or let me ask this first. How

1 Lee - direct

2 many of such employees were there?

3 MR. ELAN: What period of time are you
4 talking about?

5 MR. KWAK: Over the course of the four
6 corporate entities' existence.

7 A Well, I can't recall because it was
8 only recently that I started to refer to that
9 person or give that person a title. Prior to that
10 I used to directly speak with attorneys or
11 accountants in order to address those legal issues.

12 Q And when did you establish this legal
13 part? You said it's recently but how long ago was
14 it?

15 MR. ELAN: Object to the form of the
16 question. I think it mischaracterizes the
17 witness's testimony, but the witness can
18 answer.

19 A I can't recall when that was.

20 Q Was it more than a year ago?

21 A Yes.

22 Q Was it more than two years ago?

23 A Well, I can't recall.

24 Q Was it after this lawsuit was filed?

25 A No.

1 Lee - direct

2 Q How long before this lawsuit was filed,
3 do you remember?

4 A I can't recall.

5 Q You said it was established before this
6 lawsuit. Right?

7 A Yes, that's correct.

8 Q Okay.

9 Who was the last person in charge of
10 this legal part?

11 MR. ELAN: Objection to the form. The
12 witness can answer if he can.

13 A It was Sue Lee, spelled S-u-e L-e-e.
14 That's not her legal name.

15 Q What is her legal name?

16 A It's Bong Soo Lee, spelled B-o-n-g
17 S-o-o L-e-e.

18 Q And who was the person in charge of the
19 legal part before Bong Soo Lee?

20 MR. ELAN: Objection. Asked and
21 answered. The witness said he can't recall.

22 A I can't recall.

23 Q And I'm going to ask questions and --
24 let me withdraw that.

25 What did you do before this legal part

1 Lee - direct

2 was established to ensure that the four corporate
3 entities are in compliance with the labor laws?

4 A Well, the C.P.A. sent a poster which
5 says what the per hour pay rate should be and my
6 C.P.A. had been sending it regularly once a month.

7 Q And is that C.P.A. Mr. James Nam?

8 A Yes.

9 Q Mr. Lee, is Mr. Nam an attorney?

10 A I don't know.

11 Q He's a C.P.A. Is that right?

12 A Yes, he's our C.P.A. He's the one who
13 takes care of our accounting.

14 Q And you asked Mr. Nam for legal
15 advice. Is that right?

16 MR. ELAN: Objection to the form of the
17 question. Mischaracterizes the witness's
18 testimony.

19 A No, I'm not sure if I understood that
20 question correctly. However, I do not discuss or
21 seek any -- I do not discuss any legal issues or
22 seek any legal advices from him. He reminds us of
23 what legal hourly rates are.

24 Q Mr. Nam told you about the minimum
25 wage, the applicable minimum wage at a given time.

1 Lee - direct

2 Is that right?

3 MR. ELAN: Object. Wait, wait, wait.

4 Mr. Lee, I'm going to object. I never
5 heard the witness testify about anything about
6 any discussions with the C.P.A. about minimum
7 wage. He said what he talked about --

8 THE REPORTER: I'm sorry, I lost you.

9 MR. ELAN: I'm saying I object to the
10 form of the question because I do not recall
11 the witness ever testifying about a discussion
12 with the C.P.A. about minimum wage.

13 MR. KWAK: That's why I'm asking him
14 right now.

15 MR. ELAN: You said -- yes, but your
16 question, if you want to read it back, said --
17 referred to about discussions concerning the
18 minimum wage. The witness never testified
19 about that. So if you want to rephrase and
20 ask him what he spoke to the C.P.A. about,
21 fine.

22 MR. KWAK: Angela, can you read back
23 the last question that I asked?

24 (The question it read by the reporter
25 as follows:

1 Lee - direct

2 "Question: Mr. Nam told you about the
3 minimum wage, the applicable minimum wage at a
4 given time. Is that right?")

5 MR. ELAN: And that's what I objected
6 to.

7 MR. KWAK: I'm asking him. I mean --

8 MR. ELAN: If you want to ask him the
9 minimum wage, that's fine.

10 Lay a proper foundation to answer your
11 question.

12 Wait a second. Wait a second. I'm
13 trying to not interject unless where
14 necessary. You're asking a question that was
15 not asked previously.

16 MR. KWAK: I'm not asking him about his
17 previous testimony. I'm just asking him --

18 MR. ELAN: Sure you are.

19 MR. KWAK: -- did Mr. Nam tell you the
20 applicable minimum wages. That's my
21 question.

22 MR. ELAN: That's different than what
23 you asked before. So if you want to ask that,
24 that's fine.

25 Q Mr. Lee, did Mr. Nam tell you the

1 Lee - direct

2 applicable minimum wages at a given time?

3 A Yes. Like I said before, he would send
4 us posters and other materials.

5 Q Aside from giving you the posters and
6 telling you the minimum wages, what else does he
7 tell you or what else did he tell you regarding
8 New York labor law?

9 MR. ELAN: Objection to the form of the
10 question. It's overly broad and ambiguous.
11 If the witness can give an answer.

12 A Yes, he talked about what was on the
13 poster, the information that was on the poster.

14 Q Do you have the copies of the posters
15 that Mr. Nam provided you?

16 MR. ELAN: Wasn't that provided to you?

17 Just a second, Mr. Lee.

18 Wasn't that provided to you yesterday,
19 if I recall? Didn't we provide that to you,
20 counsel?

21 MR. KWAK: Maybe.

22 MR. ELAN: I think we did.

23 MR. KWAK: This is just a question to
24 the witness.

25 MR. ELAN: So go ahead. If you want to

1 Lee - direct

2 just have the reporter read it back.

3 MR. KWAK: Angela, can you read my last
4 question?

5 (The question is read by the reporter
6 as follows:

7 "Question: Do you have the copies of
8 the posters that Mr. Nam provided you?")

9 A Yes, I sent them to my attorney
10 yesterday via email.

11 MR. KWAK: I'll mark this as, I believe
12 this is Exhibit D.

13 (Posters from C.P.A. are marked Exhibit
14 D for Identification.)

15 Q Mr. Lee, can you see the pdf file that
16 I've opened for you?

17 A Yes.

18 Q It's a two-page document and this is
19 everything I got from defense counsel yesterday,
20 the posters that we're referring to. It's this
21 page and the next page, the second page.

22 Are these two all the posters that you
23 have on -- at your business premises?

24 MR. ELAN: Are you asking now,
25 presently?

1 Lee - direct

2 MR. KWAK: Presently.

3 A No, I have more.

4 Q Is this everything that you have that
5 Mr. Nam provided to you?

6 A No. Like I said before, I have more.

7 Q Okay. I'm going to ask for a
8 production of everything else and I'll make that in
9 writing.

10 A Okay.

11 Q Did you seek legal advice from anyone
12 other than Mr. Nam?

13 Or, I'm sorry, I'm sorry. Withdraw
14 that question.

15 MR. ELAM: You want to say that again?

16 Q Did you seek legal advice regarding
17 New York labor law from anyone?

18 MR. ELAN: Can I just get a
19 clarification about what time period you're
20 talking about?

21 MR. KWAK: Ever, during the existing
22 corporation of the first of the four corporate
23 entities.

24 MR. ELAM: Legal advice about what?

25 MR. KWAK: About New York labor law.

1 Lee - direct

2 A Yes.

3 Q From who?

4 A Currently it's with Mr. Elan and in the
5 past there was an attorney called Joo Hyun Song.

6 THE INTERPRETER: I'm just going to
7 give you phonetic spelling. J-o-o H-y-u-n
8 S-o-n-g.

9 MR. KWAK: You want to take a quick
10 five-minute break?

11 MR. ELAN: I was just going to say, I
12 don't know how much more you have. It's
13 12:35. Do you want to give me some idea?

14 (There is a discussion off the record.)

15 (There is a recess.)

16 Q All right. Mr. Lee, just a little bit
17 of background again, do you understand that you're
18 here testifying today as an individual on behalf of
19 yourself?

20 A Yes.

21 Q So all the answers you provide today
22 are binding on you as an individual. You
23 understand that?

24 A I don't understand that statement.

25 Q All right.

1 Lee - direct

2 So that means everything you say today
3 will be binding on you, meaning you will be held to
4 your words that you say today.

5 MR. ELAN: May I just add, subject to
6 receipt of a transcript of the deposition that
7 the witness has a chance to review and correct
8 anything, especially with a translator, as you
9 recall from the deposition of your client
10 where you objected to some things that the
11 translator said, so I do want that understood
12 by the client that he's going to get a
13 transcript, you should explain, that he has a
14 right to review the transcript and make any
15 corrections that he wants to his testimony
16 that he thinks were not correctly stated.

17 A Okay.

18 Q You understand what Mr. Elan just
19 explained?

20 A Yes.

21 Q Okay.

22 Mr. Lee, you're here also as a
23 representative of each of the four corporate
24 defendants. Do you understand that?

25 A Yes.

1 Lee - direct

2 Q And that also means that your testimony
3 today subject to what Mr. Elan just explained will
4 be binding on the corporations, as well. Do you
5 understand that?

6 A Yes.

7 Q And you are under oath today, so if you
8 make a false statement, that is perjury. Do you
9 understand that?

10 MR. ELAN: Just with one clarification
11 because, you know, a statement could be made,
12 it could be incorrect. I mean, let's just be
13 careful, okay, because it would be if it's
14 intentionally made, that's perjury. If it's
15 just a statement that's incorrect, I want the
16 client to understand he's not guilty of a
17 crime, so please.

18 MR. KWAK: If it's willfully false.

19 A Yes, I do.

20 Q We just came back from a break that was
21 a little bit longer than an hour. Mr. Lee, did you
22 speak with your counsel during the break?

23 MR. ELAN: Mr. Lee, without disclosing
24 anything about any conversation or anything,
25 regardless, you may answer that question with

1 Lee - direct

2 a yes or a no.

3 A Yes.

4 Q Okay.

5 All right, we left off our previous
6 session with you explaining to me that you spoke
7 with an attorney named Joo Hyun Song. Do you
8 recall that?

9 A Yes.

10 Q Is it a Mr. or Mrs.?

11 A It's a female.

12 Q Is she an attorney in New Jersey or in
13 New York?

14 A I have no idea.

15 Q Where was her office located?

16 A In Manhattan.

17 Q Okay.

18 And did you seek legal advice
19 concerning New York labor law from her?

20 A Yes.

21 Q And when was that?

22 A I can't recall the exact date but it
23 was around the time when some of my employees
24 needed to find sponsors for their permanent
25 resident status.

1 Lee - direct

2 Q Was she an immigration attorney?

3 A I'm not sure if she specializes in
4 immigration. However, she does handle immigration
5 cases.

6 Q Okay.

7 All right. Mr. Lee, let me show you
8 this document. You see the document that I just
9 put up on the screen?

10 A Yes.

11 Q Now, have you ever seen this document?

12 A No.

13 Q And the document that I've put up
14 there, they're eight pages. All of them have a
15 similar format and a little bit difference in the
16 contents. I can represent that to you.

17 You haven't seen any of these forms.
18 Correct?

19 A I only saw the first page.

20 Q Okay. I'm showing you the first page
21 now.

22 MR. ELAN: Are you marking this as an
23 exhibit?

24 MR. KWAK: Oh, yes, yes, I'm sorry.

25 Let's mark this as --

1 Lee - direct

2 MR. ELAN: Let's mark it first. All
3 right?

4 MR. KWAK: Yes. Mark this as Exhibit E
5 for Identification. It's LS forms.

6 (LS forms are marked Exhibit E for
7 Identification.)

8 Q Mr. Lee, you can see the first page.
9 Do you recognize this document?

10 A No.

11 Q I'm showing you the second page. Do
12 you recognize this document?

13 A No.

14 Q I'm showing you the third page. What
15 about this one?

16 A No.

17 Q Showing you the fourth page. What
18 about this one?

19 A No.

20 Q Showing you the fifth page. What about
21 this one?

22 A No.

23 Q Showing you the sixth page. What about
24 this one?

25 A No.

1 Lee - direct

2 Q Showing you the seventh page. What
3 about this one?

4 A No.

5 Q And, lastly, showing you the eighth
6 page. What about this one?

7 A No.

8 Q Okay.

9 And you did not provide these documents
10 to your employees ever. Is that correct?

11 MR. ELAN: Objection. He said he did
12 not see the document. That's not what he
13 said, counselor.

14 MR. KWAK: That's why I'm asking.

15 MR. ELAN: Well, your question
16 presupposes -- excuse me -- that he said --

17 MR. KWAK: No, no, no, I'm just asking
18 him.

19 MR. ELAN: Ask it correctly. Ask the
20 question correctly.

21 MR. KWAK: Mr. Elan, you presuppose
22 that I'm presupposing a lot of things. Just
23 put your objection on the record.

24 MR. ELAN: I'm putting it on the
25 record. I'm directing him not to answer the

1 Lee - direct

2 question until you ask it correctly.

3 Q Mr. Lee, did you ever provide this
4 document to your employees?

5 A You asked me if I ever saw this
6 document and I said I have never seen it and I have
7 never gave or provided this document to anyone or
8 my employees before.

9 Q Thank you.

10 (The witness and the interpreter speak
11 in Korean.)

12 THE INTERPRETER: The interpreter would
13 like to correct his last answer. The last
14 answer should have been, "Because this was not
15 part of my duties, I've never seen this
16 document before."

17 Q And, Mr. Lee, did you ever provide this
18 -- did you, you personally, as far as you, you
19 personally provide these documents to any of your
20 employees ever?

21 A I can't recall.

22 Q Do you not recall or did you not?

23 A I can't recall.

24 Q So you do not recall providing this
25 document to your employees. Correct?

1 Lee - direct

2 A Correct.

3 Q To your knowledge did any of your
4 corporate entities provide these documents to any
5 of their employees?

6 A I can't recall.

7 Q Do you not recall or do you not know?

8 A I can't recall.

9 Q And if these were provided, who would
10 know?

11 A Probably the current employee who's in
12 charge of the HR department.

13 Q And is that Miss Hwang?

14 A No, Mr. Hwang no longer works for us
15 so, no, he's not.

16 Q Who is the current HR personnel at your
17 businesses?

18 A Sujin Ji. S-u-j-i-n J-i.

19 Q And when was she employed by -- I'm
20 sorry. Which corporate entity is she working for
21 right now?

22 A DKCos Corp.

23 Q Does she work for Club Clio?

24 A No.

25 Q Let me ask it again. Does she work for

1 Lee - direct

2 Club Clio Corp.?

3 A No.

4 Q Does she work for Club Clio NYC Corp.?

5 A No.

6 Q Do the two Club Clio entities have an

7 HR person?

8 A No, two showrooms are closed at this

9 point, so no.

10 Q Was there ever an HR person or an HR

11 department for either of the two Club Clio

12 entities?

13 A Either a supervisor or an assistant

14 manager was in charge of the HR.

15 Q And would they have been -- would the

16 supervisors or the managers have been in charge of

17 providing employment-related documents to the

18 employees of Club Clio entities?

19 A I don't know because they were the ones

20 who did the hiring and who worked with the

21 employees.

22 Q All right. Did you -- I'm sorry.

23 In New York, for your employees,

24 including Mr. Kim, did you provide a notice

25 indicating their pay rates and pay day and pay

1 Lee - direct

2 frequency?

3 MR. ELAN: Are you referring to Exhibit
4 E or something else?

5 MR. KWAK: No, just any document that
6 has those information.

7 A Are you asking me if -- are you asking
8 if I have ever provided that information or are you
9 asking me if I had received that information from
10 the supervisors?

11 Q I'm asking you if the plaintiff,
12 Mr. Kim, or any of your employees ever received
13 such a document from you or any of the corporate
14 entities.

15 MR. ELAN: Other than the agreement
16 that Mr. Kim signed or something? I thought
17 there was testimony about an agreement.

18 MR. KWAK: Mr. Elan, can you let the
19 witness respond?

20 MR. ELAN: I'm just asking. I mean, I
21 just --

22 MR. KWAK: Please let the witness
23 respond.

24 A Yes.

25 Q Was it a single-page document or was it

1 Lee - direct

2 a part of a different document?

3 A I don't know.

4 Q So is it your testimony that you know
5 that it's been provided but you don't know what
6 kind of document it was?

7 A What I saw was the paystubs that you
8 posted on Zoom. That's why I said yes.

9 Q Mr. Lee, I have exhibit C up on the
10 screen for you. Is this the document that you're
11 referring to that you saw?

12 A Yes.

13 Q Are you saying this contains the
14 information on the pay rates and the pay frequency
15 and the pay dates?

16 A I can't say that with certainty.

17 Q Was Mr. Ga Ho Kim and your employees
18 provided with a document at the time of the hire
19 that set forth those information?

20 A Yes. First we send out a job offer and
21 we provide a handbook and they have to be
22 sufficiently acquainted with the content of the
23 handbook before they sign.

24 Q Do the handbooks or does the handbook
25 set forth the rates or the salary that your

1 Lee - direct

2 employee would be paid?

3 A No, those would be included in a job
4 letter, job offer letter.

5 Q And was there a job offer letter for
6 Mr. Ga Ho Kim?

7 A I don't know if he had received it. I
8 don't know if he had received it while he was
9 working either at Club Clio or DKCosmetics.

10 Q Who hired Mr. Kim when he started
11 working for Club Clio?

12 A I don't know who that was.

13 Q Was -- was Miss Jieun Lee the
14 supervisor at the time Mr. Kim started working at
15 Club Clio?

16 A I don't remember that either.

17 Q What were the work hours for your
18 employees at Club Clio?

19 A I don't have clear knowledge.

20 Q So really you don't know a lot of
21 things after lunch break.

22 MR. ELAN: No, I don't like the
23 implication of that, counselor.

24 MR. KWAK: It's not an implication.
25 I'm saying this right out.

1 Lee - direct

2 MR. ELAN: I don't like the
3 implication. Also, your questions are --

4 MR. KWAK: I'm not implying it.

5 MR. ELAN: You certainly are implying.
6 If you want to break down the question --

7 MR. KWAK: I'm saying after he came
8 back from lunch break, suddenly he doesn't
9 know a lot of stuff.

10 MR. ELAN: You know, I've made my
11 point. I just want to say, I'd like you to
12 perhaps qualify the question between
13 management and hourly employees, perhaps.
14 Maybe that will refresh the client's
15 recollection, I don't know, but if you want to
16 do that, because you've lumped all the
17 employees together. Just a suggestion for
18 you.

19 Q Mr. Lee, what were the business hours
20 for Club Clio's entities retail locations?

21 A I mean, the truth is I really don't
22 know because you told me that I have to tell only
23 the truth and I was not -- I didn't personally
24 manage those locations, so I don't know.

25 Q You don't know the business hours for

1 Lee - direct

2 your own business?

3 A Yes, because the opening hours,
4 business hours, were different from the retail
5 store to retail store.

6 Q How many retail stores did you have?

7 A About two or three but I don't have any
8 of those now.

9 Q And in addition to that you had a
10 warehouse in New Jersey. Right?

11 A Yes, if you're talking about the 734
12 Grand Avenue location, yes.

13 Q All right. Do you know how many hours
14 Mr. Kim was supposed to work or scheduled to work
15 in New York?

16 A No.

17 Q Okay.

18 In New York was -- were your employees
19 required to clock in and clock out?

20 A Yes.

21 Q And how was that done?

22 Let me rephrase that.

23 What kind of system did you use to have
24 your employees clock in and clock out?

25 A Well, for the retail stores in New York

1 Lee - direct
2 it had -- it used a POS program which functions as
3 a clock-in and clock-out system. And for
4 DKCosmetics and DKCos Corp. we had a facial
5 recognition system.

6 Q I think I asked this about New York
7 locations. Does DKCosmetics or DKCos Corp. have an
8 office in New York?

9 Oh, I'm sorry, I did ask that. I'll
10 withdraw that.

11 The records -- the clock-in and clock-
12 out records generated through the POS system, do
13 you have that record in your possession?

14 A Yes.

15 Q Does it show Mr. Kim's clock-in and
16 clock-out records?

17 A Yes.

18 Q Did you produce it in this lawsuit?

19 A Yes, if Mr. Ga Ho Kim worked at a
20 location where it was utilizing the POS system,
21 then all the information was already provided to my
22 attorney.

23 MR. ELAN: Sean, before you ask another
24 question, I'm feeling certain that we provided
25 you that information. Are you telling me you

1 Lee - direct

2 didn't get it?

3 MR. KWAK: I'll see.

4 Q Mr. Lee, you said if Mr. Ga Ho Kim
5 worked at a location with a POS system, the records
6 would be there. Was there any location without the
7 POS system?

8 A No.

9 Q So wherever -- regardless, wherever
10 Mr. Kim worked, his hours should have been recorded
11 on the POS system. Correct?

12 A No. No, what I was saying is that for
13 either the Club Clio USA or Club Clio NYC we had --
14 we were using a POS system with a cloud computing
15 base, so for either of those retail stores there
16 would be a record. However, for offices we were
17 using facial recognition system and also ERS.

18 THE WITNESS: ERP.

19 THE INTERPRETER: ERP?

20 THE WITNESS: Yes.

21 THE INTERPRETER: ERP.

22 Q So there were different systems you
23 used to record your employees' hours, but
24 regardless of where Mr. Kim worked, his hours
25 should have been recorded. Correct?

1 Lee - direct

2 A Yes, that's what I believe.

3 Q And you said you produced everything
4 you had regarding Mr. Kim to your attorneys. Is
5 that right?

6 A That's correct.

7 Q I'm sharing with you an Excel file that
8 I received from your attorney. I'll mark this as
9 exhibit, I believe this is F for Identification.

10 (Ga Ho Kim records are marked Exhibit F
11 for Identification.)

12 Q Mr. Lee, can you see the Excel
13 spreadsheet that I've put on the screen?

14 A Yes.

15 Q Is this the POS records that you were
16 referring to? And let me scroll down for you so
17 you can look at at least some portions of this
18 spreadsheet.

19 That's the end of it.

20 So you can provide your answer.

21 MR. ELAN: What is the question,
22 please?

23 MR. KWAK: Angela, can you read back
24 the question again?

25 (The question is read by the reporter

1 Lee - direct

2 as follows:

3 "Question: Is this the POS records
4 that you were referring to? And let me scroll
5 down for you so you can look at at least some
6 portions of this spreadsheet.

7 That's the end of it.

8 So you can provide your answer.")

9 MR. ELAN: Well, you don't have -- you
10 can't put the whole document on the screen at
11 one shot, I understand that. But with that
12 qualification, if the witness recognizes the
13 document.

14 A If you're asking me this is the POS
15 system, then my answer is no.

16 Q I'm asking is this the record that were
17 recorded through the POS system?

18 A Yes, if this is the document that was
19 provided from us, then it was probably provided
20 through our POS system support agency, so that's
21 probably correct.

22 Q Do you recognize this document at all?

23 A Yes.

24 Q And what is your understanding of how
25 this spreadsheet was created?

1 Lee - direct

2 MR. ELAN: Note my objection. If the
3 witness has an understanding, that's one
4 thing. The question presupposes he does. If
5 the witness knows, he can answer the
6 question.

7 A It looks to me as if our employee
8 accessed the POS system and downloaded the
9 information and then he recorded the information.

10 Q You just said something about getting
11 this information from the POS company. What did
12 you mean by that?

13 A Well, I'm not -- I don't have a clear
14 knowledge about how it works. However, POS is a
15 cloud-based system or a program, so once -- once, I
16 guess, a time limit passes, the agency or the
17 supporting -- system support have to give you an
18 access in order for you to retrieve information.

19 Q All right. And this record has in
20 times pretty much every day at 10 a.m. Do you see
21 that?

22 A Yes.

23 Q Do you believe that's an accurate
24 record of when Mr. Kim started work on each of his
25 work day?

1 Lee - direct

2 A Yes, it seems that way.

3 Q And the out times, as well, on most
4 days it's exactly 20 hours on the dot. Do you
5 believe that's an accurate record of when Mr. Kim
6 clocked out on pretty much every day?

7 A Yes.

8 Q And you said an employee of yours had
9 basically created this spreadsheet from information
10 downloaded from the POS software or the server.
11 Who is that employee?

12 A I believe it was the supervisor.

13 Q Would that be Miss Jieun Lee?

14 A Yes, I believe so.

15 Q Is it the normal course of business for
16 your supervisors to create a spreadsheet that looks
17 like this?

18 MR. ELAN: Objection to the term normal
19 course of business. I don't know what that
20 means.

21 The witness can give an answer.

22 A I didn't clearly understand the
23 question.

24 Q Do the supervisors at your companies,
25 do they generate this type of spreadsheet on a

1 Lee - direct

2 regular basis from time to time?

3 MR. ELAN: Objection to the term
4 generate. I don't know what that means
5 either.

6 MR. KWAK: You don't know what generate
7 means?

8 MR. ELAN: The witness can give an
9 answer.

10 MR. KWAK: All right. But please
11 refrain from your speaking objections.

12 MR. ELAN: Listen, I have a right to
13 object. If you want, we'll take your
14 deposition later. Okay? Right now let's get
15 through my client's. Okay?

16 MR. KWAK: You can object as to form
17 but --

18 MR. ELAN: I did. I did.

19 MR. KWAK: -- no speaking objections.

20 MR. ELAN: Let's stop the colloquy and
21 let the witness answer. I put my objection on
22 the record. Let the witness answer, if he
23 can.

24 Q Mr. Lee, please answer.

25 A I do not know.

1 Lee - direct

2 Q Do you know when this spreadsheet was
3 created, the one that you provided to your
4 attorneys?

5 A I can't recall.

6 Q Was it after this lawsuit was filed?

7 A I can't recall that either.

8 Q So you don't know who created -- who
9 made this spreadsheet. You don't know when it was
10 made. Is that right?

11 A Can you ask me that question again,
12 please, more clearly?

13 Q Do you know who created this
14 spreadsheet?

15 A And I answered that question I believe
16 it was the supervisor.

17 Q And what's the name of that supervisor?

18 A Jieun Lee.

19 Q And when did she make this spreadsheet?

20 MR. ELAN: Objection. Asked and
21 answered. But the witness can answer again.
22 If he can give an answer, go ahead.

23 A I can't recall the exact date.

24 Q And you don't know if it was before or
25 after the filing of this lawsuit. Correct?

1 Lee - direct

2 A That's correct, no.

3 Q When you get these records, the hours,
4 from the POS software or the cloud system, does the
5 system result in information for specific employees
6 or does it give information for all the employees
7 or do you have an option to do either one?

8 A I don't know.

9 Q All right. And, Mr. Lee, you said
10 after a specific time period you need the POS
11 support company to provide this information for
12 you. Is that right?

13 A Yes, that's correct.

14 Q Do you know what the length of that
15 period is?

16 A I don't know what that period is.

17 Q Do you know approximately how long that
18 period is?

19 A Yes, I believe it's years.

20 Q Approximately how many years?

21 A I don't know how many years.

22 Q Didn't you just say you know
23 approximately in terms of number of years?

24 A Yes.

25 Q So how many years approximately?

1 Lee - direct

2 MR. ELAN: Mr. Lee, do not guess, sir.

3 If you can give an approximation, fine. If
4 you do not know, do not guess how many years.

5 A That's why I said I don't know.

6 Q Okay. One second.

7 I'm sharing with you document of --

8 I'll mark this as Exhibit G for Identification.

9 (2016 records are marked Exhibit G for
10 Identification.)

11 Q Mr. Lee, do you recognize this
12 document?

13 A Yes.

14 Q It's basically what you just saw on
15 Exhibit F but for, it looks like, each of your
16 employees. Right?

17 A Yes, it looks that way.

18 Q All right. And I see a lot of tabs on
19 this spreadsheet. It has 1-3.

20 Do you recognize this spreadsheet?

21 MR. ELAN: Where are you looking?

22 Wait, wait, wait. Where are you
23 looking 1-3 so I know?

24 MR. KWAK: Oh, it's the tab.

25 MR. ELAN: Where?

1 Lee - direct

2 MR. KWAK: Right here. Right here.

3 Left bottom corner.

4 MR. ELAN: I see 1-3. Are you telling

5 me what this is? Is this your testimony?

6 What is this? What are you trying to tell us?

7 MR. KWAK: I don't know. It's a

8 document you provided.

9 MR. ELAN: I'm asking you, though. You

10 know, you're asking about it. I'd like you to

11 tell me what it is.

12 MR. KWAK: It's a document you

13 provided. I'm asking Mr. Lee if he recognizes

14 it.

15 MR. ELAN: Fine. You want to ask him

16 that, that's fine.

17 Q Mr. Lee, do you recognize this

18 document?

19 A Yes.

20 Q Is it accurate to say that this is the

21 record of your employees' work hours from January

22 1st -- and I'll scroll down to the end of the

23 document -- through April 15th?

24 MR. ELAN: Just to add to that, 2016?

25 I mean, you might as well say the year, right,

1 Lee - direct

2 so we know?

3 MR. KWAK: Yes, 2016.

4 A Yes, it looks that way.

5 Q And do you know when this spreadsheet
6 was created?

7 A No, I can't recall.

8 Q Do you know who created this
9 spreadsheet?

10 A Probably the supervisor.

11 Q And that's Miss Jieun Lee. Right?

12 A Yes, I think so.

13 Q Okay.

14 And I see names at the very top row of
15 this spreadsheet. I see Chloe, Youliya, Aeri,
16 Emily, Cynthia and a lot more of them. Do you
17 recognize these employees' names?

18 A Not all of them. Some of them I do.

19 Q As far as you know, were all of these
20 employees employed by Club Clio Corp.?

21 A I can't say. I can't answer that with
22 any certainty.

23 Q Why is that?

24 A Because Korean and Chinese employees
25 use a different name, so that's why it's difficult

1 Lee - direct

2 for me to say with any certainty.

3 Q Okay.

4 Do you have a record similar to this
5 where it shows all your employees' work hours for
6 Club Clio NYC Corp.?

7 A Yes.

8 Q Is this that document?

9 A No, I can't say with certainty.

10 Q Do you believe there's a separate
11 document aside from this document that shows the
12 work hours for employees of Club Clio NYC Corp.?

13 MR. ELAN: I object to that. That's
14 not what the witness testified.

15 MR. KWAK: Well, that's why I'm asking
16 if he believes there's a separate document or
17 not.

18 MR. ELAN: He said he's not certain,
19 so.

20 Go ahead. If you can get an answer.
21 Go ahead.

22 A I'm not sure.

23 Q Okay.

24 Just moving on to the next tab. It
25 says 4 to 6. It starts the record date on the left

1 Lee - direct

2 top corner starts from April 1st, I'm sure that's
3 2016, and it ends at, I think it should end at here
4 June 15th, 2016. Do you see that?

5 A Yes.

6 Q Would you agree that this is the record
7 of work hours for your employees at Club Clio from
8 April 1st, 2016 through June 15, 2016?

9 A Yes, it looks that way.

10 Q Is there any reason for you to doubt
11 the accuracy or the authenticity of the
12 spreadsheet?

13 A I don't understand the point of your
14 question.

15 Q Okay.

16 Is there any reason for you to believe
17 that the information contained on this spreadsheet
18 is inaccurate?

19 A Well, I still don't understand the
20 question clearly. However, if you are asking me to
21 point out any irregularities or wrong information
22 on this spreadsheet, I don't have -- I haven't been
23 given enough time to look over it carefully.
24 However, if this was the spreadsheet based --
25 provided by us, then our information was based on

1 Lee - direct

2 our records, so it's probably correct.

3 Q Okay.

4 And that applies to all these other
5 tabs, right, the 1-3, 4-6, 616 squiggly 831, 9-12,
6 and there's a tab for payment method, and there's
7 also June, July, August, September, October,
8 November and December tabs. Do you see that,
9 Mr. Lee?

10 A Yes.

11 Q Okay.

12 But you don't know when these
13 spreadsheets were created. Correct?

14 MR. ELAN: Objection. Asked and
15 answered three times. If the witness wants to
16 answer it for the fourth time, go ahead.

17 A That's correct.

18 MR. KWAK: Mr. Elan, there were twelve
19 tabs there and I was referring to the
20 spreadsheet --

21 MR. ELAN: That's not what your
22 question was, counselor.

23 MR. KWAK: What?

24 MR. ELAN: It wasn't what your question
25 was. Go on.

1 Lee - direct

2 MR. KWAK: All right.

3 Q Mr. Lee, was it possible for your
4 employees to clock in or clock out remotely,
5 meaning when they're not at the store, office or
6 the warehouse?

7 A I don't know. I'm not sure about that.

8 Q When were you first using the POS
9 system for clocking in and out for your employees?

10 A The POS system was used since the
11 inception of our retail stores and until the close
12 -- until we closed the stores permanently.

13 Q And when did you first open -- I'm
14 sorry. Let me withdraw that.

15 In what year did you first open your
16 first retail store?

17 A I can't recall the year.

18 Q Did you incorporate Club Clio NYC or
19 Club Clio Corp. at the time or around the time you
20 first opened your retail store?

21 A What was the question again?

22 Q Did you incorporate the legal entities
23 Club Clio NYC Corp. and Club Clio Corp. around the
24 time you opened the retail stores for the
25 respective entities?

1 Lee - direct

2 A I'm not clearly understanding the
3 question.

4 Q All right, let me show you a document.

5 I'm showing you what we already marked
6 as Exhibit A. This is a Business Information sheet
7 obtained from the New York State Department of
8 State and it says for Club Clio Corp. It says
9 Initial DOS Filing Date. Also it's pretty much the
10 same as the incorporation date was August 27,
11 2013. Do you see that?

12 A Yes.

13 Q Was it around this time, around August
14 27, 2013, that you opened the retail store for Club
15 Clio?

16 A No, I think there was some time gap
17 between those two events.

18 Q How long was the time gap?

19 A I don't know the exact date of the
20 opening of the retail store but I believe it was in
21 the wintertime.

22 Q So is it accurate to say that you
23 opened the retail store for Club Clio Corp. at
24 136-86 Roosevelt Avenue in the winter of 2013 and
25 '14?

1 Lee - direct

2 A Yes, that would be correct.

3 Q When you were setting up that store,
4 who was responsible for contracting with the POS
5 software or the cloud server support company?

6 A I believe it was Bong Soo Lee.

7 Q Mr. Lee, I thought Bong Soo Lee was the
8 person in the legal part of your corporation that
9 was established rather recently. Isn't that
10 right?

11 MR. ELAN: Objection to the form of the
12 question.

13 A Yes. What I was saying about Bong Soo
14 Lee is that he was the point of contact between our
15 entity and the legal adviser. It's not to say that
16 he has any legal knowledge or he's in charge of
17 legal issues.

18 Q When was Mr. Bong Soo Lee first hired?

19 A 2008.

20 Q Under what company?

21 A DKCosmetics.

22 Q And did he later transfer to any other
23 entities?

24 A I can't recall.

25 Q So is it accurate to say that he always

1 Lee - direct

2 worked for DKCosmetics?

3 A Yes.

4 Q Do you have any knowledge of what
5 Mr. Kim's actual work hours were?

6 MR. ELAN: Just before we answer,
7 before we answer, just a clarification.

8 You're asking about Ga Ho Kim's hours?
9 What time?

10 MR. KWAK: Yes.

11 MR. ELAN: When?

12 MR. KWAK: Well, during the
13 employment.

14 MR. ELAN: Well, you want to just break
15 it down because it may --

16 MR. KWAK: If he has to break it down
17 --

18 MR. ELAN: We've heard testimony here
19 that he was employed at different places, in
20 New Jersey, in New York.

21 MR. KWAK: If he has to break it down.
22 If he has to break it down, he'll break it
23 down, and I'm asking him if he knows.

24 MR. ELAN: For the record, objection.
25 The question is overly broad. If the witness

1 Lee - direct

2 can answer it.

3 A Well, if you're asking me about his
4 work hours from start of his employment to the end
5 of his employment, no, I do not know.

6 MR. KWAK: I will mark this as Exhibit
7 H for Identification.

8 (2018 time records are marked Exhibit H
9 for Identification.)

10 Q Mr. Lee, do you recognize this
11 document?

12 A Yes.

13 Q Can you explain to me what this is?

14 A I believe this was the information
15 downloaded from our ERP system.

16 Q And it says on the second column it
17 says Jimmy Kim. That's -- that refers to Mr. --
18 the plaintiff here, Ga Ho Kim. Right?

19 A That's correct.

20 Q And the date here starts from 2018 July
21 2nd through on the third page 2018 October 24th.
22 Do you see that?

23 A Yes.

24 Q Do you know how this chart or
25 spreadsheet was generated?

1 Lee - direct

2 A Are you asking me if I know how the
3 information was generated or how this chart was
4 created?

5 Q Just generally how this was put
6 together.

7 A Yes, because I understand the ERP
8 system, how the information is entered and how it's
9 withdrawn, so if you are asking me how the
10 information was extracted, then I do know.

11 Q I see a lot of dates and times and IP
12 addresses and working time. Can you explain to me
13 as far as you know how the information is entered
14 into the spreadsheet?

15 A Yes, I do know.

16 Q Can you explain to me how it's entered,
17 how the information is entered?

18 A Okay. Once an employee arrives at
19 work, he or she would access the ERP system and the
20 employee could choose to record his clock-in and
21 clock-out time either automatically or manually.
22 So if you want to do it manually, you have to
23 manually clock in and out but if it's automatic you
24 just turn the system on to clock in and turn the
25 system off in order to clock out.

1 Lee - direct

2 Q And, Mr. Lee, you said the time entries
3 are made when the employees arrive at work and when
4 they leave at work, whether automatically or
5 manually. Correct?

6 A Yes, each employee can access the ERP
7 system to his or her own computer and choose to
8 clock in or clock out either automatically or
9 manually.

10 Q So does that mean the employee has to
11 be sitting in front of a computer for these entries
12 to be made?

13 A Yes, I think so.

14 Q And those computers are at DKCos
15 Corp.'s office. Is that right?

16 A Yes.

17 Q And where is the office located?

18 A Well, according to the information,
19 Jimmy Kim's location was New Jersey.

20 Q And how can you tell?

21 A Well, you could see from the IP address
22 and also at the top and during his employment the
23 DKCosmetics used an ERP system and he went to the
24 New Jersey office.

25 Q Mr. Lee, do you have records of Ga Ho

1 Lee - direct

2 Kim or Jimmy Kim's work hours other than this
3 between 2018 July through October?

4 A I'm not sure.

5 Q Is there any reason you could think of
6 that might have caused the destruction or deletion
7 of Mr. Kim's work hour records?

8 A No. I mean, we cannot delete
9 information on the system on our own.

10 Q Do you know how long -- do you know for
11 how long the records are maintained on the system,
12 the ERP system?

13 A My understanding is that as long as the
14 service is paid for by us, the information is
15 maintained in the system.

16 Q Today as you sit here do you believe
17 you should have all the records predating 2018 July
18 2nd?

19 MR. ELAN: Let me ask, what records are
20 you referring to? The witness has testified
21 about this document, about what it
22 represents. What are you talking about?

23 MR. KWAK: Mr. Kim's records, the ERP
24 records, before 2018 July 2nd.

25 (There is a discussion off the record.)

1 Lee - direct

2 MR. KWAK: Back on the record.

3 Q Mr. Lee, is there a similar document
4 for Mr. Kim for the period preceding 2018 July 2nd?

5 A I don't know.

6 Q When Ga Ho Kim was working in
7 New Jersey he was commuting from Flushing. Right?

8 A Yes, based on my -- based on the
9 information and knowledge, I believe Ga Ho Kim was
10 living in New York at the time of our hiring.

11 MR. ELAN: Sean, can we do this. We've
12 been going now -- I'm looking at my watch --
13 for an hour-and-a-half. I just want a five-
14 minute break. Just five minutes.

15 MR. KWAK: Five-minute break?

16 MR. ELAN: Because we're going into a
17 new area. Let's just take -- I just need a
18 five-minute break. All right?

19 MR. KWAK: Yes. Go ahead. Take a
20 break.

21 (There is a recess.)

22 Q Just a little bit more on Exhibit, this
23 was H.

24 Mr. Lee, is there any reason for you to
25 doubt the accuracy of the records shown on Exhibit

1 Lee - direct

2 H?

3 A No.

4 Q And this shows the hours that Mr. Ga Ho
5 Kim or Jimmy Kim was working at the New Jersey
6 office or warehouse. Is that correct?

7 A Yes.

8 Q All right. And while Mr. Kim was
9 working in New Jersey was he provided a company
10 vehicle?

11 A No.

12 Q Did Mr. Kim not have a company vehicle
13 to drive around?

14 A That's correct, there was no company
15 vehicle.

16 Q Mr. Kim drove to work to New Jersey.
17 Right?

18 A I'm not sure.

19 Q Do you know if Mr. Kim was driving one
20 of your companies' or your employees' vehicles?

21 A Well, I heard it later, heard about it
22 later.

23 Q Whose vehicle was it?

24 A Seri Oh.

25 THE WITNESS: S-a-r --

1 Lee - direct

2 MR. ELAN: Mr. Lee, with the consent --

3 Mr. Lee, hold on one second.

4 If you want, because it looks like my
5 client is struggling here for the spelling.

6 With your consent, Sean, he can either spell
7 it as best he can or if you want to leave a
8 blank in the transcript and we can put it in
9 later.

10 MR. KWAK: Of course. We can just
11 spell it out phonetically.

12 MR. ELAN: Okay. Why don't we do that.

13 MR. KWAK: I would say --

14 MR. ELAN: We can always correct the
15 transcript.

16 MR. KWAK: -- S-e-r-i O-h.

17 Q Mr. Lee, do you know how Mr. Kim came
18 to possess and drive Miss Oh's car?

19 A I don't.

20 Q When was the first time you found out
21 that Mr. Kim was driving Miss Oh's car?

22 A If you're asking for an exact date, I
23 don't remember.

24 Q What was the year that you first found
25 out about it?

1 Lee - direct

2 A I don't know that either.

3 Q Was it after this lawsuit was filed?

4 A No.

5 Q It was before this lawsuit was filed.

6 Correct?

7 A Yes, that's correct.

8 Q Were you aware that Mr. Kim was driving
9 your employees working in New Jersey to work in
10 New Jersey?

11 A I didn't know.

12 Q So as far as you're aware, Mr. Kim
13 drove alone? Is that right?

14 A Well, if the point of your question is
15 asking me had I known that -- did I know if Ga Ho
16 Kim was driving from New York to New Jersey by
17 himself, I don't think so or I don't know, because
18 at some point I believe he told me that he was
19 living in New Jersey.

20 Q All right, let me ask this again. Were
21 you aware that Mr. -- were you ever aware that
22 Mr. Kim was driving any of your employees to and
23 from work?

24 A Well, if you're asking me about the
25 carpool, yes, I knew about it.

1 Lee - direct

2 Q When did you first find out about it?

3 A When Saeri Oh told me.

4 Q And what is Mrs. -- Miss Oh's title
5 within the company?

6 A Currently her title is operation
7 manager.

8 Q When was she promoted to an operation
9 manager?

10 MR. ELAN: I'm going to object to the
11 question because there's been no testimony
12 about what her prior position was and all of a
13 sudden you're talking about some promotion to
14 operations manager. Maybe you just want to go
15 back and ask what her title was before. I
16 think that question is one step ahead.

17 MR. KWAK: Well, if I don't do this,
18 you're going to say it's lacking foundation.

19 Q What was Miss Oh's title before
20 operation manager?

21 A Well, I don't know how to explain it in
22 English. However, she was an assistant manager and
23 then she was promoted to the manager level.

24 Q And when did she tell you about
25 Mr. Kim's driving of your other employees?

1 Lee - direct

2 A Well, I don't know when that was.

3 However, when I asked Miss Oh where she parks her
4 car, she told me temporarily she had loaned it to
5 Ga Ho Kim.

6 Q And how was Miss Oh getting to work?

7 A Probably she used the subway.

8 Q Did you ever direct your employees to
9 request a ride from Ga Ho Kim?

10 A No.

11 Q At the end of the day while Mr. Kim was
12 working in New Jersey, would he -- would he stop by
13 your retail stores in New York and drop off some
14 merchandise or goods?

15 A I'm not certain.

16 Q Who would know if it happened?

17 A Alex.

18 Q What's his full name?

19 A I can't recall what his last name was.

20 Q Who was or what was Alex's employer,
21 DKCosmetics, DKCos Corp.?

22 A DKCosmetics.

23 Q What was his title?

24 A Warehouse manager.

25 Q Did Mr. Kim have the keys to all the

1 Lee - direct

2 retail stores in New York?

3 A I'm not sure. I don't even have those
4 keys.

5 Q All right.

6 Mr. Lee, do you know what a spread of
7 hours pay is?

8 A Yes, I know it very well now.

9 Q When did you first learn about it?

10 A I heard it from my attorney.

11 Q And that was after this lawsuit was
12 filed. Correct?

13 A That's correct.

14 Q Is it your contention that Ga Ho Kim
15 was not entitled to spread of hours payment?

16 A No.

17 Q And did you ever pay Ga Ho Kim for
18 spread of hours premium?

19 A Well, I mean, like, you asked me if I
20 knew what the spread of hours is before the lawsuit
21 was filed and I said no. So to the following
22 question that had I ever paid Ga Ho Kim for the
23 spread of hours and the answer would be no.
24 However, if you ask me if I ever paid Ga Ho Kim for
25 the night shift hours that he worked, then yes.

1 Lee - direct

2 Q Okay. Well, we'll get to that later.

3 Mr. Lee, do you remember one of your
4 employees named Aeri Moon?

5 A Yes, very well.

6 Q When was she first hired?

7 A I can't recall the date.

8 Q What year was it?

9 A No.

10 Q Was she employed in New York or in
11 New Jersey?

12 A New York.

13 Q Which company employed her? Was it
14 Club Clio NYC Corp. or Club Clio Corp.?

15 A One of the two. However, I don't know
16 which one.

17 Q Does it matter which one hired her?

18 A No. No, it's just that unless I know
19 the answer, I wasn't supposed to guess, so I said I
20 don't know.

21 Q How was she paid? Was she paid in
22 cash, check, direct deposit or somehow else?

23 A I never was the one who handed out her
24 pay so I have no idea.

25 Q And how often was she paid?

1 Lee - direct

2 A Probably similar to other employees.

3 However, I don't know if she was paid weekly or

4 monthly. I don't know.

5 Q Was she a salaried employee?

6 A I believe she was a part-time employee.

7 Q Was she a full-time employee at any

8 point in time?

9 A Yes, I think so.

10 Q When she was a full-time employee, do

11 you know if she was a salaried employee or hourly

12 employee?

13 A I can't recall.

14 Q All right, I'm showing you what's been

15 marked as Exhibit G and I'm on the payment method

16 tab. Do you see I'm highlighting for you the cells

17 for Aeri. It says Employee Name, Aeri. Do you see

18 this, Mr. Lee?

19 A Yes.

20 Q And Aeri, that's Aeri Moon. Right?

21 A Correct.

22 Q And it says Amount, 1250. Correct?

23 A That's correct.

24 Q And it says Method, Cash. Do you see

25 that?

1 Lee - direct

2 A Yes, I do see that.

3 Q Would this mean that Miss Moon was paid
4 \$1,250 in cash?

5 A Yes, I believe so.

6 Q And I'm looking at this August tab.
7 There's also a row for Aeri. That's Miss Moon. Do
8 you see that?

9 A Yes.

10 Q And it says under the column for Work
11 days/hours, it says fix. Do you see that?

12 A Yes.

13 Q Can you see it, Mr. Lee?

14 A Yes.

15 Q Do you know what that means, the term
16 fix?

17 A With regard to the word fix on this
18 sheet, I do not know what it implies to.

19 Q Who would be the most knowledgeable
20 about this spreadsheet?

21 A Jieun Lee.

22 Q Thank you.

23 When you pay your employees in cash, do
24 you have them sign some kind of receipt?

25 A Well, with regard to what you have just

1 Lee - direct
2 showed me, like if you're asking about the CT that
3 I just saw, it would have been a supervisor who
4 would have paid Aeri Moon. However, I've never
5 paid her directly.

6 Q By CT I think you meant the sheet.
7 Right?

8 A Well, yes, what I'm trying to say is if
9 you're asking me if -- to know -- to find out if I
10 have ever paid the amount that was shown on that
11 sheet, then I never did.

12 (There is a discussion off the record.)

13 Q Okay. Mr. Lee, when you paid Miss Moon
14 the wages or when your supervisors paid Miss Moon
15 her wages, do you know if she was provided a copy
16 of a paystub?

17 A No, I do not.

18 Q Do you know if when Miss Moon was first
19 hired, she was given a notice that sets forth her
20 pay day, pay rate and pay frequency?

21 A If you're asking me, no, I have never
22 done that.

23 Q And was Miss Moon required to record
24 her hours as in clock in and clock out when she
25 came to work and left work?

1 Lee - direct

2 A Yes.

3 Q And that would be recorded on the POS
4 cloud server. Correct?

5 A That's correct.

6 Q And you're not aware of her actual work
7 hours other than those recorded on the POS server.
8 Correct?

9 A Yes, that's correct. Any information
10 that comes from me would have been from the POS
11 system.

12 Q Just generally were salaried employees
13 treated any different from other employees,
14 nonsalaried employees?

15 MR. ELAN: Just before the witness
16 answers, difference in what respect?

17 MR. KWAK: Just employment purposes.

18 MR. ELAN: Well --

19 MR. KWAK: All right, let me clarify.

20 MR. ELAN: Yes, that question is too
21 vague.

22 Q With respect to recordkeeping policies,
23 were there any difference between the records
24 provided and kept for salaried employees versus
25 nonsalaried employees?

1 Lee - direct

2 A Well, is the question related to
3 DKCosmetics and DKCos Corp. or Club Clio USA and
4 Club Clio NYC Corp.?

5 Q For all entities, but if your answers
6 are different for the different entities, you can
7 indicate so.

8 A Well, with regard to DKCosmetics and
9 DKCos Corp., before they are hired there is --
10 there is a salary negotiation, so they -- so they
11 get paid salaries. However, with regard to the
12 Club Clio USA and Club Clio NYC, the ones who are
13 in charge of hiring are managers including Jimmy
14 and I do not deal directly -- I was not involved in
15 that so I don't know.

16 Q At Club Clio Corp. or Club Clio NYC
17 Corp., do you have any reason to believe that Ga Ho
18 Kim was treated in any way different from other
19 salaried employees with respect to recordkeeping
20 policies?

21 A No.

22 Q And, again, with respect to the
23 recordkeeping policies, was Mr. Kim treated any
24 differently from other nonsalaried employees? I'm
25 sorry, in Club Clio Corp. and in Club Clio NYC

1 Lee - direct

2 Corp.

3 A No.

4 Q Okay.

5 Mr. Lee, did you have a chance to
6 review the Complaint filed in this action?

7 MR. ELAN: You want to put a time frame
8 on that?

9 MR. KWAK: It's the Complaint. It's
10 obviously after the lawsuit was filed.

11 MR. ELAN: Well, I know. Are you
12 asking yesterday in connection with this
13 deposition? Are you asking six months ago?

14 MR. KWAK: At any time.

15 A You're asking me have I ever read the
16 Complaint anytime being -- anytime after the
17 lawsuit was filed. Right?

18 Q That's correct.

19 A Yes.

20 Q And are you aware that Mr. Kim is
21 alleging unpaid overtime wages?

22 A Yes, that's what I read.

23 Q Do you contend that Mr. Kim is not
24 entitled to overtime pay?

25 A No, that's not what I think.

1 Lee - direct

2 Q Do you contend that Miss Moon was not
3 entitled to overtime pay?

4 A No, that's not what I contend. That's
5 not my contention.

6 Q And did you ever pay Miss Moon any
7 overtime wages?

8 A Yes, I received a report saying that
9 she was paid overtime.

10 Q Who was that report from?

11 A Eun Hee Wang.

12 THE INTERPRETER: I'm just going to
13 give you a phonetical spelling. E-u-n H-e-e
14 W-a-n-g.

15 Q And when was that report?

16 A Well, I don't know the exact point in
17 time. However, I do remember that clearly because
18 she asked for more money because she was short of
19 money.

20 Q And was that after this lawsuit was
21 filed?

22 A No.

23 Q Do you remember what year it was?

24 A I don't remember what year that was.
25 However, I do remember it was while Moon -- Aeri

1 Lee - direct

2 Moon was still working for us.

3 Q Do you know if it was paid in cash or
4 by check?

5 A No, I don't have a clear recollection.

6 Q Okay.

7 And was Mr. Kim ever paid overtime
8 wages?

9 A Yes.

10 Q When was that?

11 A I don't remember when that was.

12 Q Was it on more than one occasion?

13 A Yes.

14 Q When did you begin to pay your
15 employees for overtime wages?

16 A I can't remember well the date.

17 Q Was it from the opening of your retail
18 stores?

19 A Yes, I believe around that time the
20 supervisors paid overtime on their own discretion.

21 Q Okay, I'm showing you -- actually, I'll
22 mark this as Exhibit I for Identification.

23 (Email dated March 13, 2018 is marked
24 Exhibit I for Identification.)

25 Q Mr. Lee, can you see an email that I'm

1 Lee - direct

2 sharing with you?

3 A Yes.

4 Q On the Subject line, can you read what
5 it says with the assistance of the interpreter?

6 A I'm going to check the overtime for
7 February.

8 Q Okay.

9 And do you see that there's a forwarded
10 message that's from Jimmy Kim?

11 A Yes.

12 Q And it says, "Mr. President, I'm
13 sending you the February work hours in Excel
14 file." Is that right?

15 A Yes.

16 Q What was the purpose of requesting
17 Mr. Kim to send over his February work hours on
18 this date?

19 A As the president of the company I did
20 not know that my employees were working overtime.
21 However, our security camera alerted me that
22 someone was there and I figured it was my employee,
23 either my employee or employees working late, so I
24 recognized that as I had legal duty to pay the
25 overtime, that's why.

1 Lee - direct

2 Q So prior to February you were not aware
3 that your employees were working overtime? Is that
4 right?

5 A I can't recall.

6 Q Was February the first time that you
7 requested or that you attempted to check if your
8 employees were working overtime?

9 A No.

10 Q How many times before February 2018 did
11 you check if your employees were working overtime?

12 A I checked every month through Hyeshin
13 Hwang.

14 Q What was so special about the February
15 overtime that you requested Ga Ho Kim or Jimmy Kim
16 to send you his hours?

17 A I believe February was a busy month for
18 the warehouse and the reason that I asked Jimmy Kim
19 or Ga Ho Kim to provide that information was
20 because he was the lowest-level employee at the
21 warehouse and I knew that his information would be
22 truthful and if I asked a higher-level employee,
23 then I felt that the higher-level employee may
24 provide false information.

25 (There is a discussion off the record.)

1 Lee - direct

2 MR. ELAN: Exhibit I is an email dated
3 March 13, 2018 from Ga Ho Kim, a/k/a Jimmy
4 Kim, to the witness, Mr. Lee, and shown to be
5 getting a copy of the same email is Hyeshin
6 Hwang. I hope I'm not mispronouncing it. I
7 apologize.

8 MR. KWAK: That's fine. We got the
9 spelling.

10 MR. ELAN: As long as we got the
11 spelling, that's fine.

12 MR. KWAK: Okay.

13 MR. ELAN: Go ahead, Sean.

14 MR. KWAK: Are we ready?

15 MR. ELAN: Go ahead.

16 Q Mr. Lee, were you able to pull the
17 records from the ERP system for Mr. Ga Ho Kim for
18 February 2018?

19 A Yes.

20 Q Then why is it that you requested Ga Ho
21 Kim to provide an Excel spreadsheet instead of
22 pulling it from the system?

23 A So that I can compare with the hours
24 that he recognized as his work hours. I wanted to
25 reconcile that with our company record, so if

1 Lee - direct

2 possible I was going to accommodate his hours.

3 Q Okay.

4 And did you end up paying Mr. Ga Ho Kim
5 his overtime wages for February 2018?

6 A Yes.

7 Q Okay.

8 And I'm showing you a third page of
9 Exhibit I. Is that the check that you issued for
10 Mr. Kim's February overtime?

11 A It looks like it.

12 Q Is that your signature on the check?

13 A Yes, that's correct.

14 Q So for February 2018 you paid Ga Ho
15 Kim's overtime by check. Correct?

16 A That's correct.

17 Q What about for all the other months
18 before February and after February? Did you pay
19 Mr. Kim his overtime wages by check?

20 MR. ELAN: Well, objection. I mean,
21 have we established that he worked overtime?
22 I mean, that question presupposes that that
23 has been asked and answered. I don't recall
24 that testimony.

25 MR. KWAK: Apparently, he paid for

1 Lee - direct

2 overtime.

3 MR. ELAN: Well, he paid overtime for
4 March -- for February. We're not disputing
5 that.

6 Q Mr. Lee, I'm showing you page 2 of
7 Exhibit I. Do you recognize this document?

8 A I don't know if I recognize this
9 particular page. However, it seems to have been
10 extracted from our program.

11 Q Okay.

12 At the bottom left corner it says March
13 13, 2018 12:15. Correct?

14 A Yes.

15 Q Is it -- would it be accurate to say
16 that the second page of Exhibit I, the spreadsheet,
17 is an attachment that's shown on the first page of
18 the email?

19 A I'm not sure.

20 Q Okay.

21 Then when Mr. Kim sent you the Excel
22 file that's referenced in the email, the first page
23 of Exhibit I, did you see that Mr. Kim had actually
24 worked overtime for February?

25 A I instruct the HR person to review the

1 Lee - direct
2 information provided and pay the employee or
3 employees so that there is -- so that it would not
4 cause any legal issues. However, I'm not the one
5 who pays the employee or employees.

6 Q Okay.

7 And did the HR personnel report to you
8 at any time that Mr. Ga Ho Kim did work overtime
9 for February 2018?

10 A Yes. That's why the check was issued.

11 Q And, again, you signed the check.
12 Right?

13 A Yes, that's correct.

14 Q Did you sign a check for every overtime
15 payment that you made to your employees?

16 A Not all the time.

17 Q Most of the times?

18 A Yes.

19 Q Okay. I'm going to request a copy of
20 all the checks that you paid to your employees for
21 overtime and I'll put that in writing after the
22 deposition.

23 A Yes, I'll look for them and if I find
24 any, I will provide them to my attorney.

25 MR. ELAN: Mr. Lee, listen to me. That

1 Lee - direct

2 request was directed to me on your behalf.

3 We'll take it under advisement. Okay? Don't

4 you respond to that question. Counsel was

5 directing that to me. Understand?

6 A Understood.

7 MR. ELAN: All right. With respect to

8 any requests, any requests that's made, we'll

9 take it under advisement.

10 MR. KWAK: Understood, Mr. Elan.

11 Q Mr. Lee, I'm showing you the fourth

12 page of Exhibit I. Do you recognize this

13 document? It's a check from DK Cosmetics but do

14 you recognize this document?

15 A Yes, I do.

16 Q Can you tell me what this payment was

17 for?

18 A Ga Ho Kim came to the United States

19 when he was young and due to some personal reasons

20 he and his parents hadn't seen each other for a

21 long time and at that time his parents were about

22 to visit this country, so I gave him a paid

23 vacation and I also gave him some money for -- some

24 money for his vacation so he can have a good time

25 with his parents.

1 Lee - direct

2 Q This was not compensation for overtime
3 wages. Correct?

4 A That's correct.

5 Q Mr. Lee, do you know how to calculate
6 overtime wages?

7 A No.

8 Q Who calculated all the overtime wages
9 that were purportedly paid by you or your
10 companies?

11 A I believe it was our C.P.A.

12 Q And what's his name or her name?

13 A James Nam.

14 Q And did he provide that service for you
15 for the entire duration of your business operation?

16 A Based on request. Upon request only.

17 Q And how often did you make this request
18 for Mr. Nam to calculate overtime wages for you and
19 your company?

20 A I did not handle that, so I'm not sure.

21 Q Then who is responsible for making the
22 requests to Mr. Nam to calculate the overtime
23 wages?

24 A It used to be Hyeshin Hwang but now
25 it's Sujin Ji.

1 Lee - direct

2 Q And are you aware of how the request is
3 made?

4 A No.

5 Q Mr. Lee, do you know if Miss -- is it
6 Miss Hwang or Mr. Hwang? I forget.

7 A Miss.

8 Q Okay.

9 Would Miss Hwang and Miss Ji send an
10 email to Mr. Nam or would they tell him over the
11 phone what the numbers are or would they mail out a
12 form to Mr. Nam? Do you have any idea how the
13 request was made?

14 A I don't know what the process was prior
15 to Sujin Ji taking over that role. However, after
16 Sujin Ji was in charge of that, she always cc's me
17 in her email to James Nam.

18 Q And when did Miss Ji take over the HR
19 matters?

20 A I don't know the exact date.

21 Q Do you know the approximate date?

22 A No, I can't recall.

23 Q And did Miss Ji make the request to --
24 actually, let me rephrase that.

25 Did Miss Hwang or/and Miss Ji make the

1 Lee - direct
2 request to Mr. Nam for all the corporations or just
3 for some of them?

4 A It was for DKCosmetics and DKCos Corp.

5 Q And who's responsible for calculating
6 the overtime pay for Club Clio Corp. and Club Clio
7 NYC Corp.?

8 A I believe you asked a similar question
9 before. However, I believe I answered that it was
10 Jieun Lee.

11 Q And to your understanding, Miss Lee
12 knows how to calculate the overtime wages.
13 Correct?

14 A Yes, that's correct.

15 Q And for all the payments you made to
16 your employees, you maintain a record of all the
17 payments. Right?

18 A Yes.

19 Q And did you produce all those records
20 in this action?

21 A Yes, I believe so.

22 Q I'm showing you Exhibit F. I showed
23 you this same file on the third tab on this
24 spreadsheet but I'm referring to the second tab
25 now. The tab is titled DK Cosmetics underscore

1 Lee - direct

2 Payroll Info. Can you see this spreadsheet,

3 Mr. Lee?

4 A Well, I don't see the title but I can

5 see the Paid Date, Check, Amount and TTL, Note.

6 Q All right.

7 Well, when I was referring to the name

8 of the tab, I was actually referring to a name

9 that's on the bottom where I'm hovering my mouse

10 over right now.

11 A Sorry, I have a Zoom bar so I can't

12 see.

13 Q Let me try this. Can you see it now?

14 A No.

15 Q Okay, that's fine. I'll represent to

16 you that this is the second tab of Exhibit F.

17 You can see the spreadsheet, though.

18 Right?

19 A That's correct.

20 Q Okay. Is this all the record or is

21 this the record of all the payments that

22 DKCosmetics or DKCos Corp. had made to Mr. Ga Ho

23 Kim?

24 A It's the record of the checks that were

25 issued to Ga Ho Kim.

1 Lee - direct

2 Q Well, checks and direct deposit, too.

3 Right?

4 A Yes. Correct.

5 Q Okay.

6 MR. ELAN: Sean, can I just ask you,
7 what's on here to indicate that this is Ga Ho
8 Kim? Is there something from the prior tab?

9 MR. ELAN: Well, you produced or the
10 defendants produced this file.

11 MR. ELAN: I'm just asking --

12 MR. KWAK: Off the record.

13 (There is a discussion off the record.)

14 MR. ELAN: Okay. Is there a question
15 pending or no?

16 MR. KWAK: No, I'm just waiting for the
17 court reporter.

18 Let me see, let me plan ahead a
19 little.

20 I think I'll be done within less than
21 an hour, not an hour in full. You want to
22 take a quick ten-minute break or?

23 MR. ELAN: No, I want to keep going.

24 MR. KWAK: All right, sure.

25 Q All right, Mr. Lee, back on the

1 Lee - direct

2 record.

3 MR. ELAN: Just a minute. Just go off

4 for a second.

5 (There is a discussion off the record.)

6 MR. KWAK: All right, back on the

7 record.

8 Q Mr. Lee, so is it true that this is all
9 the records of payments made to Mr. Ga Ho Kim by
10 check or by direct deposit?

11 A Yes, I believe all the checks and
12 direct deposits to Ga Ho Kim were recorded.

13 Q Do you see any entries for the payment
14 of overtime?

15 A Well, based on the spreadsheet or the
16 tab on the screen, I only see one payment dated
17 March 15th.

18 Q Why does your record show only one
19 payment for overtime if you had been paying each
20 month?

21 A Because they were paid in cash.

22 Q Didn't you testify that most overtime
23 wages were paid by check?

24 A No, I never said that.

25 Q Okay.

1 Lee - direct

2 If you paid Mr. Kim in cash, do you
3 maintain any record of cash payments?

4 A I don't know if -- other than what was
5 already provided to my attorney, I don't remember.

6 Q And did you provide to your attorney
7 any records concerning cash payments made to Ga Ho
8 Kim?

9 A I believe we had a conversation about
10 that. However, I do not remember if I turned over
11 all the documents to him or not.

12 Q So are you saying that there may be
13 other documents that you did not provide to your
14 attorneys?

15 A Well, it's impossible for me to give
16 you a yes or a no answer because I haven't gone
17 through all the documents.

18 Q So you don't know. Right?

19 A That's correct.

20 Q Do you know if there is any record
21 concerning cash payments?

22 A I know there is a record of some
23 payment.

24 Q And that's while Mr. Kim was working in
25 New York or in New Jersey?

1 Lee - direct

2 A Well, all my answers pertain to the
3 time when Ga Ho Kim was working in New Jersey.

4 Q With respect to the work hours for
5 Mr. Kim, is it your contention that Mr. Kim's hours
6 should be substantially similar with another
7 employee named Hyun Hee Kim?

8 A Well, I don't know if you had asked me
9 that question before. However, if you are asking
10 me if their work hours were very similar and I
11 would say yes because they both worked at the
12 warehouse during the same time period and they were
13 doing the same work and typically one person
14 doesn't stay afterhours or one person doesn't work
15 longer hours than the other, so they show up for
16 work at the same time and they leave work at the
17 same time.

18 MR. KWAK: Okay, I'll mark this
19 document, I'll call it Hyun Hee Kim's hours,
20 as Exhibit J for Identification.

21 (Hyun Hee Kim's hours are marked
22 Exhibit J for Identification.)

23 Q Mr. Lee, can you see the spreadsheet on
24 the pdf document that I'm sharing right now?

25 A Yes.

1 Lee - direct

2 Q This is a thirteen-page document. I
3 can represent to you that this is what was produced
4 by your attorneys and I believe this to be the work
5 hours record for Miss Hyun Hee Kim.

6 Is that an accurate description of this
7 document? If you like, I can scroll down.

8 A Yes, I believe that's an accurate
9 description.

10 Q And you're saying the hours for Miss
11 Kim should be substantially similar to Mr. Ga Ho
12 Kim's hours only because the warehouse workers
13 worked the same shift. Is that correct?

14 MR. ELAN: I'm going to object to that
15 because there was no testimony to your
16 question just before where you came out of
17 left field and said --

18 MR. KWAK: Okay, okay, okay.

19 MR. ELAN: We don't know who this is or
20 anything else, counsel. Start again.

21 MR. KWAK: All right. Start again.

22 MR. ELAN: We don't know anything about
23 this. This testimony is completely out of
24 left field so start at the beginning with who
25 Hyun Hee Kim is and identify the person. I

1 Lee - direct

2 don't have to tell you how to do the
3 deposition. Go ahead.

4 MR. KWAK: We actually mentioned Hyun
5 Hee Kim in the very beginning of the
6 deposition.

7 MR. ELAN: Well, that's about seven
8 years ago so go ahead.

9 MR. KWAK: All right. I didn't know
10 that it was seven years ago or ten years ago.

11 Q Mr. Lee, who is Hyun Hee Kim?

12 A She's an employee of my company.

13 Q Is she still an employee of your
14 company?

15 A Yes, she still is.

16 Q Which company is she employed by?

17 A DKCosmetics.

18 Q I see on the left or I see at the top
19 it says Company Name. It says DKCos and in
20 parentheses DK Cosmetics parentheses. Is there a
21 reason why both of the corporate names are written
22 on this document?

23 A It's because both companies use one ERP
24 system.

25 Q Okay. And do you know where Miss Kim

1 Lee - direct

2 lives?

3 A No, I don't know her address.

4 Q Do you know if she lives in New Jersey
5 or in New York?

6 A I do know that she is living in
7 New Jersey.

8 Q While Mr. Ga Ho Kim was still working
9 at DKCos, where did Miss Kim live?

10 A I believe she was living in New York.

11 Q Are you aware that Miss -- all right,
12 I'm sorry, let me reask the question.

13 Is it your contention that Miss Kim and
14 Mr. Kim -- it sounds like they're married but
15 they're not -- commuted to work together?

16 A I really don't know.

17 Q Let me rephrase the question. I think
18 I asked it wrong, too.

19 Is it your contention that Miss Kim's
20 -- that Miss Kim and Mr. Kim commuted together?

21 MR. ELAM: I'm going to object.

22 Q Or carpooled together?

23 MR. ELAN: I don't recall any testimony
24 in the record about this.

25 MR. KWAK: That's why I'm asking right

1 Lee - direct

2 now.

3 MR. ELAN: You're asking if they
4 commuted together? You know, I didn't hear
5 anything about a contention because I haven't
6 heard any testimony about it.

7 MR. KWAK: That's why I'm asking right
8 now.

9 MR. ELAN: Your question is phrased as
10 if an answer was already given about it, so
11 why don't you start by asking do you know
12 whether they commuted together. I think that
13 would be --

14 MR. KWAK: Well, I'm going to ask if
15 it's his contention that they commuted
16 together.

17 MR. ELAN: How can you say it's his
18 contention when there's been no testimony
19 about it, Sean?

20 MR. KWAK: I'm not premising this on
21 his testimony.

22 MR. ELAN: How can you contend
23 something when there's no testimony about the
24 particular subject? That presupposes there's
25 testimony in the record from Mr. Lee that he

1 Lee - direct

2 said that they commuted together. There's
3 been no testimony about that.

4 MR. KWAK: If he does not contend, he
5 can say, no, I do not contend so. It's an
6 easy question to answer.

7 MR. ELAN: I don't know. Go ahead.
8 I'm too tired. Ask the question. Just ask
9 the question.

10 MR. KWAK: I already did.

11 MR. ELAN: Just note my objection to
12 that question. Okay? The witness can give an
13 answer but note my objection. Improper
14 foundation.

15 A But I never stated that they were
16 carpooling together.

17 Q But is that your understanding, that
18 they carpooled together?

19 A Yes, sometimes.

20 Q Sometimes but not all the times.
21 Right?

22 A Correct.

23 Q And by sometimes, how often do you
24 mean, like how many days per week?

25 A Probably a couple of times a month.

1 Lee - direct

2 Q Okay.

3 All right, I'm showing you what's been
4 marked as Exhibit G. This is the fourth tab that's
5 titled 9-12 and I'm looking at columns CA through
6 CD. Can you see that, Mr. Lee?

7 A Yes.

8 Q It shows that from September 1st
9 through September 15th Jimmy, or Mr. Kim, the
10 plaintiff here, had worked 120 hours. Correct?

11 A Yes, based on that document.

12 Q And to your understanding did Mr. Kim
13 work overtime during this pay period?

14 A Yes, based on that record, he did.

15 Q Do you know if Mr. Kim was paid
16 overtime for this pay period?

17 A No, I do not.

18 Q Why is that?

19 A Well, I was the president of the
20 company. However, other people were handling
21 this. Therefore, I did not know about it.

22 Q Is it fair to say, and so simply stated
23 -- well, let me withdraw that.

24 Are you saying you had no involvement
25 in the operation and management of the New York

1 Lee - direct

2 retail locations?

3 A That's correct. I did not manage those
4 retail stores. I only provided monetary support
5 when they were short of money.

6 Q So you're not aware of the
7 recordkeeping practices at the New York retail
8 locations. Correct?

9 A However, I received regular reports
10 from my vice-president.

11 Q Who is the vice-president?

12 A Bong Soo Lee.

13 Q Did Bong Soo Lee provide reports to you
14 concerning how the records were being maintained
15 and kept at the New York retail locations?

16 A Well, with regard to overtime payments
17 or circumstances of the retail stores, whether they
18 needed to hire more employees or let go of some
19 employees, these things would be reported by the
20 supervisor to the vice-president and then the
21 vice-president would relay those information to me.

22 Q My question was, did Mr. Bong Soo Lee
23 report to you on the recordkeeping policies at the
24 New York retail locations?

25 MR. ELAN: Objection to form. What do

1 Lee - direct

2 you mean about recordkeeping policies? I'm
3 not sure what you're meaning.

4 MR. KWAK: By the records I mean
5 recordkeeping policies. What's the vagueness
6 in that?

7 MR. ELAN: Are you talking about
8 employment, any other particular records,
9 business records?

10 MR. KWAK: All right, recordkeeping
11 policies with respect to the employees and the
12 employment of the employees.

13 A Yes, I believe the supervisors had
14 them.

15 Q But you're not aware of it. Correct?

16 A That's correct. I don't have a clear
17 understanding or knowledge of it.

18 Q And you don't know if the employees of
19 Club Clio NYC or Club Clio Corp. were paid
20 overtime. Is that right?

21 A That's not what I said.

22 Q Are you aware of them? Are you aware
23 whether -- of whether they were paid overtime?

24 A I don't understand why you keep asking
25 the same questions because I already answered that

1 Lee - direct

2 question by saying when I would be contacted if the

3 -- if one of the companies were short of money to

4 pay the overtime.

5 Q How was that request made?

6 A By phone.

7 Q And who would give you a call?

8 A Supervisors.

9 Q And that's Jieun Lee. Right?

10 A Yes.

11 MR. KWAK: All right, I think just one

12 more line of question and I'll be done.

13 Which exhibit are we up to? Did we do

14 J?

15 We did it up to J.

16 I'm showing -- I'll mark this as

17 Exhibit K for Identification.

18 (Defendant John Lee's Responses To

19 Plaintiff's Interrogatories is marked Exhibit

20 K for Identification.)

21 Q Mr. Lee, can you see the document that

22 I'm sharing with you entitled Defendant John Lee's

23 Responses To Plaintiff's Interrogatories?

24 A Yes, I think this is a similar document

25 to the one I saw already.

1 Lee - direct

2 Q Yes.

3 I think you're referring to Exhibit B
4 that I showed you that was the Corporate
5 Defendant's Response To Plaintiff's
6 Interrogatories. What I'm showing you now, Exhibit
7 K, is your response, you as an individual, in
8 response to plaintiff's interrogatories.

9 Do you recall seeing plaintiff's
10 interrogatories posed to you as an individual?

11 A Yes, I do see that.

12 Q And at the end of this response -- and,
13 Mr. Elan, by the way, it's not signed for some
14 reason -- but at the very end, the last page, page
15 5, says Verification and it has your electronic
16 signature on it.

17 Do you recall authorizing anyone or do
18 you recall electronically signing this or
19 authorizing someone to electronically sign on your
20 behalf for this Verification?

21 A Yes.

22 Q Okay.

23 And do you understand what the
24 Verification means?

25 A Yes.

1 Lee - direct

2 MR. KWAK: I'll mark this as Exhibit L.

3 No, not this one. I'm sorry. This as
4 Exhibit L.

5 (Defendant's Responses To Plaintiff's
6 Request To Admit is marked Exhibit L for
7 Identification.)

8 Q Can you see this, Mr. Lee?

9 A Yes.

10 Q This is a document entitled Defendant's
11 Responses To Plaintiff's Request To Admit.

12 Have you seen this document before?

13 A Yes.

14 Q When was the last time you saw
15 Plaintiff's Request To Admit?

16 A I can't recall.

17 Q Okay.

18 And did you provide truthful responses
19 as to whether you admit or deny the statements
20 requested for admission?

21 THE INTERPRETER: What was the question
22 again?

23 Q Did you provide truthful responses as
24 to whether --

25 THE INTERPRETER: Okay.

1 Lee - direct

2 A Yes.

3 Q And I'm showing you --

4 MR. KWAK: I'll mark this as Exhibit M
5 for Identification.

6 (Defendant's Initial Disclosures is
7 marked Exhibit M for Identification.)

8 Q Mr. Lee, this is a document entitled
9 Defendant's Initial Disclosures. Do you recognize
10 this document?

11 MR. ELAN: Did we mark this document?

12 MR. KWAK: What is it?

13 MR. ELAN: Have you marked this
14 document? I haven't seen it.

15 MR. KWAK: I just said it's Exhibit M.
16 I'll mark this as exhibit M just now.

17 MR. ELAN: All right, go ahead.

18 Q Mr. Lee, can you see this document?

19 A Yes.

20 MR. ELAN: Can he physically see it is
21 what you're asking. Correct?

22 MR. KWAK: Yes. Yes.

23 MR. ELAN: Mr. Lee, can you see the
24 document?

25 A Yes.

1 Lee - direct

2 Q All right.

3 Under section 1 you listed a pretty
4 lengthy list of witnesses who might know -- who
5 might have knowledge about this action. (a) is
6 John Lee. That's yourself. Correct?

7 A Yes.

8 Q And in section (b) it says Yura (Alex)
9 Cha. Do you see that?

10 A Yes.

11 Q Is he currently employed by any one of
12 your companies?

13 A No.

14 MR. ELAN: Just have you noting in the
15 same response it says he's no longer employed
16 by defendants.

17 MR. KWAK: That is helpful.

18 MR. ELAN: It may save you some time
19 because I don't want you to go through each
20 and every one. I want to go home.

21 Q Mr. Lee, is this the Alex that you had
22 mentioned during the deposition today? Do you
23 recall mentioning an Alex?

24 A Yes, that's correct.

25 Q And who is Kwangsup Lim?

1 Lee - direct

2 A Kwangsup Lim was the predecessor of
3 Alex Cha.

4 Q Did Mr. Lim ever work with Ga Ho Kim
5 concurrently?

6 A Yes.

7 Q And it says for Mr. Lim it says, "Also,
8 while employed by DKCosmetics, was the person who
9 usually drove the employees from and to Flushing,
10 Queens to the Ridgely warehouse."

11 Do you see that?

12 A Yes.

13 Q Is this accurate?

14 A Well, I cannot read and understand that
15 English completely. However, if you're asking me
16 about the carpool, yes, that's correct.

17 Q And section (d) we have Saeri Oh.

18 Mr. Lee, do you see here that it says,
19 "Also, when Mr. Lim stopped working for
20 DKCosmetics, he took over as the person who usually
21 drove the employees from and to Flushing, Queens to
22 the Ridgely warehouse"? Do you see that?

23 A Yes, if you're talking about the
24 carpool, that's correct.

25 Q At the time Mr. Lim was providing the

1 Lee - direct
2 purported carpool service, were you aware that
3 there was such an arrangement between the
4 employees?

5 A No, I didn't have clear understanding
6 of it.

7 Q When did you come to have a clear
8 understanding of what Mr. Lim did for the other
9 employees?

10 A Well, I don't know exactly when that
11 started. However, I did know that most of the
12 employees were commuting from New York to
13 New Jersey by riding a bus provided from the King
14 Sauna and Ga Ho Kim and Hyun Hee Kim also traveled
15 to work that way. However, at some point the
16 employees started to pool money together to pay for
17 gases and it became -- that became the practice.

18 Q And, Mr. Lee, when did you become aware
19 that Mr. Saeri Oh was providing the carpool service
20 for the other employees?

21 A I don't know when that was. However, I
22 heard -- at one point I heard that people were
23 collecting ten dollars, twenty dollars for the gas
24 or for pastries and I know I heard about it from
25 someone and I believe it was Hwa Young Lee --

1 Lee - direct

2 THE INTERPRETER: I'm just going to
3 give you phonetic spelling. H-w-a Y-o-u-n-g
4 L-e-e.

5 A -- who collected money.

6 Q Did you or the corporate entities
7 provide an E-ZPass for Mr. Lim to use for the
8 carpool arrangement, purported carpool arrangement?

9 A It wasn't specifically for the carpool
10 of the employees. However, the E-ZPass was one of
11 the benefits that Mr. Lim received.

12 Q And after Mr. Lim was no longer
13 employed by defendants, who began to use the
14 E-ZPass?

15 MR. ELAN: Objection. Note my
16 objection to the form of the question.

17 I just want to say for the record
18 there's no testimony that the E-ZPass was
19 given to anybody else, so note my objection.
20 The witness can give an answer.

21 A I don't think anyone else used it.

22 Q Did Mr. Kim, Ga Ho Kim, use the
23 corporate E-ZPass?

24 A No, I don't think so.

25 MR. KWAK: Okay, I think that's it for

1 Lee - direct

2 the day but give me three minutes to just
3 check my -- go over my notes. You want to
4 come back at 5:15?

5 MR. ELAN: That's fine.

6 (There is a recess.)

7 MR. ELAN: Are you ready, Sean?

8 MR. KWAK: I just have two more
9 questions. Hopefully, it doesn't turn into
10 two lines of questions.

11 Q Mr. Lee, when we were discussing the
12 overtime payments and the payments made by check,
13 you said most overtime wages were paid by check.
14 Do you recall that?

15 MR. ELAN: I just want to object to the
16 form of the question. I'm not certain that
17 that correctly characterizes the client's
18 testimony but over my objection, if the client
19 wants -- you know, can give an answer, go
20 ahead.

21 A No, I never said that.

22 Q Then why was it that the overtime paid
23 to Ga Ho Kim in February 2018 was paid by check?

24 A I can't recall what the reason was.

25 Q Was there anything in particular or

1 Lee - direct

2 special about that payment of overtime or for
3 overtime in 2018 February?

4 A I'm not sure.

5 Q By approximation, what percentage of
6 overtime checks did you write -- overtime payments
7 did you make by check?

8 A I'm unable to estimate.

9 Q Were the only overtime -- were the only
10 payments for overtime wages made by check in March
11 for February 2018?

12 MR. ELAN: For the plaintiff?

13 MR. KWAK: No, for all of his
14 employees, any of his employees.

15 MR. ELAN: If you know the answer,
16 Mr. Kim. Mr. Lee, excuse me.

17 THE INTERPRETER: May the interpreter
18 ask Angela to read back the question?

19 MR. ELAN: Please.

20 (The question is read by the reporter
21 as follows:

22 "Question: Were the only overtime --
23 were the only payments for overtime wages made
24 by check in March for February 2018?")

25 MR. ELAN: Note my objection. The

1 Lee - direct

2 question is unintelligible. If the witness
3 can give an answer.

4 A I believe there were a few more.

5 Q And by few more you mean few more for
6 the pay period other than 2018 February. Is that
7 right?

8 A Are we still talking about just Ga Ho
9 Kim or the rest of the employees?

10 Q All of your employees.

11 A Well, our company doesn't really have a
12 lot of work for our employees to stay for another
13 shift or a night shift. However, I know it was
14 more than one time.

15 Q Mr. Lee, I'm showing you what's been
16 marked as Exhibit H. Actually, hold on one
17 second. I got to keep track of all the exhibits
18 that we used before. Okay.

19 Mr. Lee, I'm showing you what's been
20 marked as Exhibit H. I could represent to you that
21 July 9th was a Monday. That means on this chart
22 July 9th, 10, 11, 12 and 13 were Mr. Kim's
23 workweek. Correct?

24 A Yes, based on that record.

25 Q Just approximately, can you look at

1 Lee - direct

2 this record and tell me if his weekly work hours
3 were greater or less than forty hours?

4 A I don't want to guess.

5 Q Was it more than forty hours or less
6 than forty hours?

7 A Well, it looks to me like it was more
8 than forty hours based on that record.

9 Q Should Mr. Kim have been paid overtime
10 on this week?

11 MR. ELAN: Just a minute. Again, this
12 witness is here as a fact witness. Okay?
13 Whether he should have been paid overtime or
14 not subject to my qualification here that he's
15 here as a fact witness, you're asking for a
16 legal conclusion. This witness is not here as
17 a lawyer. The witness has testified that it
18 was more than forty hours.

19 Q Do you believe that you or the
20 companies should have paid overtime?

21 MR. ELAN: Over my objection, the
22 witness can give an answer.

23 A Yes, I believe the overtime was paid.

24 Q Let's look at the next week, the 16th
25 through the 20th. Were the hours greater than or

1 Lee - direct

2 less than forty hours?

3 A It looks to be more than forty hours.

4 Q What about the next week, more than
5 forty or less than forty?

6 A Yes, you don't have to ask me to do the
7 rudimentary mathematics. It looks that way.

8 Q Is it true that plaintiff worked
9 overtime almost every week? Or, I'm sorry. I'm
10 sorry.

11 Is it true that plaintiff worked more
12 than forty hours a week on almost all workweeks?

13 MR. ELAN: Objection to the form of the
14 question.

15 Are we talking 2016? I mean, when,
16 what period? Are you talking about this
17 document?

18 MR. KWAK: Let's say from 2018 July
19 through 2018 October.

20 MR. ELAN: July of '18 through October
21 of '18. So you're talking about July, August,
22 September and October.

23 MR. KWAK: That's right.

24 MR. ELAN: Is that what this document
25 is?

1 Lee - direct

2 MR. KWAK: Yes. It starts July 2nd,
3 ends October 24th.

4 MR. ELAN: Well, you know, to save some
5 time, we'll stipulate whatever the document
6 shows in terms of hours, it shows for hours
7 per week, okay, so the client doesn't have to
8 sit here and do the math.

9 MR. KWAK: Yes, if your client didn't
10 say that it was on rare occasion that
11 plaintiff or his employees worked overtime, I
12 would not be going through this.

13 MR. ELAN: Well, you know, we're
14 talking about a four-year period or something,
15 a two-, three-year period here. You're
16 showing a document for a few months. Okay?
17 The witness also testified your client was
18 paid for the overtime.

19 MR. KWAK: I'm sorry. That's because
20 this is the only record that you provided.

21 MR. ELAN: The employment of the
22 plaintiff was more than a few months so we
23 could get into -- we don't want to
24 characterize each other's testimony, I
25 believe. Right? The testimony is what the

1 Lee - direct

2 testimony is.

3 MR. KWAK: And I'm trying to show that
4 his testimony is inaccurate by going through
5 the --

6 MR. ELAN: You have the document. You
7 have the document. You have the hours. You
8 made your point.

9 MR. KWAK: Don't tell me how to do my
10 deposition. If you're tired, fess up.

11 MR. ELAN: I am tired. This deposition
12 is now past five o'clock. I'm just doing this
13 as a professional courtesy.

14 MR. KWAK: That's because you're
15 objecting speaking objections, raising
16 speaking objections to my questions saying
17 there's no foundation when there's none needed
18 and your client saying he doesn't know
19 anything. I'm sorry.

20 MR. ELAN: On the contrary, my client
21 has testified fully and as completely as
22 possible here, counselor.

23 MR. KWAK: And I believe it was
24 inaccurate so I do need to go through the
25 documents --

1 Lee - direct

2 MR. ELAN: The record shows what the
3 record shows.

4 MR. KWAK: No, but I want your client
5 to see it and I want his testimony about this
6 record on the record -- about this document on
7 the record.

8 Q Mr. Lee, is it fair to say that
9 plaintiff worked overtime on every single week in
10 July, August, September and October of 2018? If
11 you need time to review this document, I'll give
12 you the time.

13 A I mean, if you're telling me that he
14 had worked overtime in that period, then my
15 understanding is that he was paid overtime for the
16 hours that he worked.

17 Q That's not my question.

18 MR. KWAK: Angela, can you read back my
19 question?

20 (The question is read by the reporter
21 as follows:

22 "Question: Mr. Lee, is it fair to say
23 that plaintiff worked overtime on every single
24 week in July, August, September and October of
25 2018? If you need time to review this

1 Lee - direct

2 document, I'll give you the time.")

3 A Well, if that's what shows in the

4 record, then I think the record is correct.

5 Q That was a yes or no question.

6 MR. ELAN: He gave you the answer.

7 MR. KWAK: No, he didn't.

8 MR. ELAN: You don't like the answer --

9 MR. KWAK: It's a yes or no question.

10 MR. ELAN: That's the witness's answer.

11 MR. KWAK: No, it's not that I don't
12 like the answer. It's not the answer to the
13 question.

14 MR. ELAN: Ask the question again. You
15 don't like the answer, ask the question again
16 a different way.

17 MR. KWAK: Angela, can you please read
18 back the question?

19 (The question is read by the reporter
20 as follows:

21 "Question: Mr. Lee, is it fair to say
22 that plaintiff worked overtime on every single
23 week in July, August, September and October of
24 2018? If you need time to review this
25 document, I'll give you the time.")

1 Lee - direct

2 A I already said that if your question is
3 limited to the information that's written on that
4 record, I said -- my answer was yes, it looks that
5 way based on that record.

6 Q Mr. Lee, do you still stand by your
7 testimony that it was only on rare occasion that
8 Mr. Kim or your employees worked overtime?

9 MR. ELAN: Worked overtime?

10 Wait, what was that question? Read
11 that back.

12 (The question is read by the reporter
13 as follows:

14 "Question: Mr. Lee, do you still stand
15 by your testimony that it was only on rare
16 occasion that Mr. Kim or your employees worked
17 overtime?")

18 MR. ELAN: Objection to
19 mischaracterizing the witness's prior
20 testimony. If the witness wants to give an
21 answer, he can.

22 A Yes, I do. Yes, I still do.

23 Q And for each pay period in July,
24 August, September and October of 2018 was Mr. Kim
25 paid in cash for overtime?

1 Lee - direct

2 A Yes, that's my recollection.

3 Q And you have records for that. Right?

4 A Some.

5 Q What do you mean by some? Which parts
6 are you missing?

7 A Well, I don't know the point of your
8 question and I don't clearly understand the
9 question clearly.

10 Q First of all, you don't need to know
11 the point of the question. You just need to answer
12 the question. And, second, let me rephrase it for
13 you or reask it for you.

14 Which parts of your cash payment record
15 are you missing?

16 A Well, I said I have some of the record
17 and I don't have the rest, so I didn't mention
18 anything about the time period of the records that
19 I'm missing or the time period of the records that
20 I have.

21 Q Okay. Then which part of the record
22 are you missing?

23 A Okay, my answer is the same. I only
24 have some of the record but if you're asking me
25 which -- all the record that I'm missing which time

1 Lee - direct

2 period that those missing records pertain to, then

3 I don't know.

4 Q Where do you maintain those records,

5 cash payment records?

6 A Well, I have some records I keep in my

7 diary and for some employees the money was wired to

8 Korea so I have the record of the wire transfer.

9 Q Other than in your diary, do you have

10 any other paper records or electronic files where

11 you maintain a list of all the cash payments you've

12 made to your employees?

13 A I don't know if I have any now.

14 Q Was it you that created the record, the

15 cash payment records?

16 A Well, if the payment went out from me,

17 I probably have the record. However, if the

18 payment went out from the HR person, then the HR

19 person would probably have the record.

20 Q And who paid the cash overtime wages to

21 plaintiff?

22 A For the retail shops it would have been

23 the supervisor and for DKCosmetics and DKCos Corp.

24 it would have been myself or the HR person.

25 Q And that's cash from hand to hand.

1 Lee - direct

2 Right?

3 A Yes.

4 Q Where was the cash handed over
5 locationwise?

6 A Based on my recollection, it was in
7 New Jersey.

8 Q Was it in the office?

9 A Well, like I said before, in New Jersey
10 we only have a warehouse and if you consider that
11 to be the office, yes, in the office.

12 Q Is there any structure where you can
13 identify it was nearby? Was it nearby a computer
14 or gates or a door? Where was the location where
15 you personally handed over cash payment for
16 overtime wages to plaintiff in person hand to hand?

17 A When I paid the overtime payment, it
18 would have been for all the employees because they
19 would have worked overtime together, so I put the
20 overtime payment on the table, on a table.

21 Q Was it on a table for all the employees
22 or did all the employees have their own desks where
23 you put the cash payment on?

24 A Well, each employee had their own
25 table.

1 Lee - direct

2 Q And you left it there without -- when
3 the employees were not at their desk?

4 A I mean, there were times when I paid my
5 employee when he or she was sitting at the table or
6 I -- there was also a time when I paid my employee
7 outside the building.

8 Q Were there --

9 A Okay, not outside the building but not
10 in the office area.

11 Q Just to clarify, it's within the
12 building but outside like a smaller office space
13 within the building. Correct?

14 A Yes, I'm talking about, well, there's a
15 separation between the desk -- the office where
16 there are desks for employees and then another
17 warehouse space where the merchandise are kept, so
18 there is a desk in the warehouse area.

19 Q And were there also times when you left
20 the cash payment on the employees' desks when
21 they're not there?

22 A Yes, I have left the cash payment when
23 the employees were not at their desk.

24 Q And with respect to plaintiff, Mr. Kim,
25 did you ever hand Mr. Ga Ho Kim the cash payment

1 Lee - direct

2 personally from hand to hand?

3 A Yes.

4 Q And approximately when was that?

5 A I can't recall the date.

6 Q Was it on more than one occasion?

7 A Yes.

8 Q Was it on -- was it twice a month?

9 A I can't recall how many times.

10 Q And how would the HR person make the
11 payment, cash payments, to the employees?

12 A I do not know.

13 Q And for the -- for all the cash
14 payments that you personally made to the employees
15 for overtime wages, you said you would keep --
16 maintain the record of how much was paid. Correct?

17 A Yes. Like I said before, I only have
18 partial records.

19 Q And you mentioned your diary. Is there
20 anything other than your diary where you kept the
21 record of cash payments?

22 MR. ELAN: Just for the record, this
23 question has been asked and answered I think
24 about three times. The witness also testified
25 about wire transfers of payments besides his

1 Lee - direct

2 diary.

3 MR. KWAK: Wire transfers are not cash
4 payments.

5 MR. ELAN: The witness testified that
6 that's how payment was made in some cases.
7 Okay? I mean, you can call it what you want
8 but I'm just, you know, refreshing your
9 recollection and this question has been asked
10 three times so far.

11 MR. KWAK: Can you remind me what his
12 answer was? Was there anything other than the
13 diary?

14 MR. ELAN: Listen, listen, I want to
15 finish this. We're coming up to seven hours.
16 Okay? It's almost six o'clock and I want this
17 ended because I'm going to end this deposition
18 now.

19 MR. KWAK: I want to end this, as well,
20 but your client is providing me --

21 MR. ELAN: My client has answered your
22 questions. You just don't like the answer.

23 MR. KWAK: Then tell me what his answer
24 was.

25 MR. ELAN: I'm tired of this.

1 Lee - direct

2 MR. KWAK: What was his answer?

3 MR. ELAN: You get to ask it one more
4 time and that's it.

5 MR. KWAK: No. What was his answer?

6 MR. ELAN: He answered. He said to you
7 about a diary about cash payment records. He
8 talked about wire transfer records regarding
9 cash payments, as well. If you don't think
10 that's it, fine, you can disagree.

11 MR. KWAK: What was his answer?

12 MR. ELAN: That's his answer.

13 Q Mr. Lee, please respond.

14 THE INTERPRETER: There was an answer,
15 a response.

16 A No, there's no other record.

17 Q Thank you.

18 And what was the business hour for
19 DKCosmetics and DKCos Corp. in New Jersey?

20 A Depending on the season, I believe the
21 hours varied. It was either from nine to six or
22 ten to six. I can't recall the exact business
23 hours.

24 Q How long were the breaks for the
25 employees in New Jersey?

1 Lee - direct

2 A The only break time that I'm aware of
3 was the one-hour lunch break.

4 Q Was that recorded anyhow?

5 A I don't really understand the
6 question. Are you asking me if that was recorded
7 somewhere?

8 Q Yes. I'm asking if the employees'
9 break hours were recorded anywhere?

10 MR. ELAN: I object to the form. I
11 don't understand the question. Recorded
12 what? But if the witness can give an answer,
13 go ahead.

14 A Well, it's indicated in our handbook.

15 Q That's not my question.

16 Were the breaks that were actually
17 taken by the employees recorded, the times of the
18 breaks, were they recorded anywhere?

19 MR. ELAN: Same objection. The
20 question is unintelligible. If the witness
21 can understand and give an answer, let him.

22 A No, I think it would be difficult for
23 me to provide an answer because I couldn't really
24 understand the question.

25 Q Did the employees clock in and out --

1 Lee - direct

2 actually, clock out when they began their breaks

3 and clock back in when they ended their breaks?

4 A I do not know.

5 Q Who would know?

6 A I don't know.

7 Q So you don't know of anyone that would

8 know about the employees' break hours. Correct?

9 A Well, I'm sure all the employees know
10 themselves.

11 Q But no one knows about any records.

12 A Well, with regard to the offices in
13 New York, employees clock out for lunch hour and
14 then they clock in when they return from their
15 lunch, so it's recorded. However, with regard to
16 the locations in New Jersey, I am not really sure.

17 Q Mr. Lee, how often were you at the
18 New Jersey warehouse?

19 A Probably about once a month.

20 Q And how often were you at the Club Clio
21 NYC retail store?

22 A Well, once or twice a year.

23 Q And how often were you at the Club Clio
24 Corp. retail store?

25 A Same, once or twice a year.

1 Lee - direct

2 (The witness and the interpreter speak
3 in Korean.)

4 A I just wanted to find out how long this
5 is going to take because I have to move my car,
6 take my car out from the parking lot at six.

7 Q That's fine. I'm done for today.

8 A So I can leave?

9 (There is a discussion off the record.)

10 MR. ELAN: We're done?

11 MR. KWAK: We're done.

12 MR. ELAN: Thank you. Good-bye.

13 THE INTERPRETER: All right. Thank you
14 so much.

15 MR. KWAK: Good night, everyone.

16 (Deposition concludes at 5:55 p.m.)

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I, ANGELA SPERDUTO, a Certified Court Reporter
of the State of New Jersey, do hereby certify that
the foregoing deposition of JOHN J.K. LEE was taken
before me on February 17, 2021 and was recorded
stenographically by me and the foregoing is a true
and accurate transcription of my stenographic
notes.

I FURTHER CERTIFY that the witness was duly
sworn by me according to law prior to testifying.

I FURTHER CERTIFY that I am not an attorney or
counsel for any of the parties, that I am not
related to or employed by any of the parties or by
any of the attorneys in this action, and that I am
not financially interested in the action.

ANGELA SPERDUTO, CCR
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